

Conference Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 278

SENATE BILL 1066

AN ACT

AMENDING SECTIONS 42-1124, 42-1125, 42-1127, 42-2003, 42-3001, 42-3004 AND 42-3006, ARIZONA REVISED STATUTES; AMENDING SECTION 42-3006, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 7 OF THIS ACT; AMENDING SECTIONS 42-3007, 42-3010, 42-3053, 42-3151 AND 42-3201, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3201.01; AMENDING SECTION 42-3202, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-3202.01, 42-3202.02 AND 42-3202.03; AMENDING SECTION 42-3202.03, ARIZONA REVISED STATUTES, AS ADDED BY SECTION 16 OF THIS ACT; AMENDING SECTION 42-3203, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 18 OF THIS ACT; REPEALING SECTION 42-3204, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3205; AMENDING SECTIONS 42-3206, 42-3207, 42-3209, 42-3210 AND 42-3211, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3212; AMENDING SECTIONS 42-3221, 42-3222, 42-3303, 42-3304 AND 42-3305, ARIZONA REVISED STATUTES; RELATING TO TOBACCO; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-1124, Arizona Revised Statutes, is amended to
3 read:

4 42-1124. Failure to affix stamps or pay or account for tax;
5 forfeiture of commodity; sale of forfeited
6 commodity; effect of seizure and sale; request for
7 administrative hearing; definitions

8 A. If the department or its authorized agents or representatives
9 discover any luxury subject to tax under chapter 3 of this title to which
10 official stamps have not been affixed as required or on which the tax has not
11 been paid or accounted for, the department or its agent or representative may
12 seize and take possession of the luxury, and it is deemed forfeited to this
13 state. EXCEPT AS PROVIDED IN SUBSECTION D OR E OF THIS SECTION, the
14 department shall within a reasonable time thereafter, pursuant to a notice
15 posted on the premises or by publication in a newspaper of general
16 circulation in the county where the sale is to take place, not fewer than
17 five days before the date of sale, offer for sale and sell the forfeited
18 luxuries. The department shall pay the proceeds of the sale into the state
19 general fund. The sale shall take place in the county which is most
20 convenient and economical. The department need not offer any property for
21 sale if, in its opinion, the probable cost of sale exceeds the value of the
22 property.

23 B. The seizure and sale do not relieve any person from the penalties
24 provided for violating this title.

25 C. The department of revenue may enter into an interagency agreement
26 with the department of transportation for the purpose of carrying out tobacco
27 enforcement under chapter 3 of this title at ports of entry.

28 D. ALL CIGARETTES THAT ARE SEIZED FOR VIOLATIONS UNDER THIS TITLE
29 SHALL BE FORFEITED TO THIS STATE. ALL CIGARETTES THAT ARE FORFEITED TO THIS
30 STATE PURSUANT TO SECTION 42-3210 OR SECTION 44-7111, SECTION 6(b) SHALL BE
31 DESTROYED. IF A CIGARETTE DISTRIBUTOR DEFRAUDS THIS STATE BY KNOWINGLY AND
32 INTENTIONALLY FAILING TO KEEP OR MAKE ANY RECORD, RETURN, REPORT OR INVENTORY
33 PERTAINING TO CIGARETTES, BY REFUSING TO PAY ANY LUXURY TAX FOR CIGARETTES
34 SUBJECT TO TAX UNDER CHAPTER 3 OF THIS TITLE OR BY ATTEMPTING TO EVADE OR
35 DEFEAT ANY REQUIREMENT OF THIS TITLE, THE CIGARETTE DISTRIBUTOR SHALL FORFEIT
36 TO THIS STATE ALL FIXTURES, EQUIPMENT AND ALL OTHER MATERIALS AND PERSONAL
37 PROPERTY THAT ARE LOCATED ON THE PREMISES OF THE CIGARETTE DISTRIBUTOR.
38 ALTERNATIVELY, AT THE REQUEST OF THE DEPARTMENT, THE CIGARETTE DISTRIBUTOR
39 MAY BE ENJOINED BY AN ACTION COMMENCED BY THE ATTORNEY GENERAL OR A COUNTY
40 ATTORNEY IN THE NAME OF THE STATE FROM ENGAGING OR CONTINUING IN ANY BUSINESS
41 FOR WHICH A TAX IS IMPOSED BY THIS CHAPTER UNTIL THE TAX HAS BEEN PAID AND
42 UNTIL SUCH PERSON HAS COMPLIED WITH THIS TITLE.

43 E. THE DEPARTMENT MAY SELL OR OTHERWISE DISPOSE OF ANY CIGARETTES
44 FORFEITED TO THIS STATE ON SUCH CONDITIONS AS IT DEEMS MOST ADVANTAGEOUS AND
45 JUST UNDER THE CIRCUMSTANCES, UNLESS SUCH CIGARETTES ARE FORFEITED PURSUANT

1 TO SECTION 42-3210 OR SECTION 44-7111, SECTION 6(b). THE DEPARTMENT SHALL
2 DEPOSIT THE PROCEEDS OF ANY SALES MADE PURSUANT TO THIS SUBSECTION IN THE
3 STATE GENERAL FUND.

4 F. THE DEPARTMENT SHALL GIVE NOTICE OF THE SEIZURE AND FORFEITURE OF
5 CIGARETTES DESCRIBED IN THIS SECTION BY PERSONAL SERVICE OR BY CERTIFIED MAIL
6 TO ALL PERSONS KNOWN BY THE DEPARTMENT TO HAVE ANY RIGHT, TITLE OR INTEREST
7 IN THE PROPERTY. NOTICE SHALL INCLUDE A DESCRIPTION OF THE CIGARETTES
8 SEIZED, THE REASON FOR THE SEIZURE AND THE TIME AND PLACE OF THE SEIZURE.
9 THE FOLLOWING APPLIES TO THE NOTICE UNDER THIS SUBSECTION:

10 1. EXCEPT AS PROVIDED IN PARAGRAPH 2 OF THIS SUBSECTION, THE
11 DEPARTMENT SHALL POST AND MAINTAIN AN ON-LINE NOTICE OF SEIZURE AND
12 FORFEITURE ON ITS WEB SITE FOR A PERIOD OF AT LEAST SIX MONTHS, BEGINNING NO
13 LATER THAN TEN BUSINESS DAYS AFTER THE DATE OF THE PERSONAL SERVICE OF THE
14 NOTICE TO A PERSON OR THE DATE OF THE MAILING OF THE NOTICE. THE ON-LINE
15 NOTICE SHALL DISPLAY THE DATE ON WHICH THE DEPARTMENT POSTS THE NOTICE TO THE
16 WEB SITE, WHICH SHALL SERVE AS THE DATE OF PUBLICATION OF THE NOTICE.

17 2. AN ON-LINE NOTICE IS NOT REQUIRED IF THE AMOUNT OF CIGARETTES
18 SEIZED IS LESS THAN SIXTY-ONE CARTONS OF TWO HUNDRED CIGARETTES EACH.

19 G. ANY PERSON WHOSE LEGAL RIGHTS, DUTIES OR PRIVILEGES ARE DETERMINED
20 BY THE NOTICE OF SEIZURE AND FORFEITURE MAY FILE A REQUEST FOR AN
21 ADMINISTRATIVE HEARING WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE
22 DEPARTMENT. THE REQUEST FOR AN ADMINISTRATIVE HEARING SHALL CONTAIN A
23 STATEMENT OF THE PETITIONER'S INTEREST IN THE CIGARETTES AND AN EXPLANATION
24 OF WHY THE RELEASE OR RECOVERY OF THE CIGARETTES IS WARRANTED ON THE GROUND
25 THAT THE CIGARETTES WERE ERRONEOUSLY OR ILLEGALLY SEIZED.

26 H. THE SEIZURE AND FORFEITURE OF CIGARETTES BY THE DEPARTMENT IS AN
27 APPEALABLE AGENCY ACTION AS DEFINED IN SECTION 41-1092 AND IS GOVERNED BY
28 TITLE 41, CHAPTER 6, ARTICLE 10 AND SECTION 42-1251, EXCEPT THAT:

29 1. A REQUEST FOR AN ADMINISTRATIVE HEARING THAT IS FILED UNDER
30 SUBSECTION G OF THIS SECTION IS DEEMED TO BE TIMELY FILED IF THE REQUEST IS
31 FILED WITH THE DEPARTMENT WITHIN TEN DAYS AFTER THE DATE OF PERSONAL SERVICE
32 ON THE PETITIONER OR THE DATE OF MAILING THE NOTICE TO THE PETITIONER. ANY
33 PERSON NOT SERVED PERSONALLY OR BY MAIL SHALL FILE THE REQUEST WITHIN TEN
34 DAYS AFTER THE DATE OF PUBLICATION OF THE NOTICE. THE FAILURE OF A PERSON TO
35 FILE A TIMELY REQUEST CONSTITUTES A BAR TO THAT PERSON'S RIGHT TO ANY
36 INTEREST IN THE CIGARETTES, EXCEPT INSOFAR AS THE RIGHTS OF THAT PERSON MAY
37 BE ESTABLISHED IN AN ACTION FILED BY THE DEPARTMENT UNDER THIS CHAPTER.

38 2. IF A REQUEST FOR AN ADMINISTRATIVE HEARING IS NOT FILED WITH THE
39 DEPARTMENT AT THE EXPIRATION OF TEN DAYS AFTER THE NOTICE HAS BEEN PERSONALLY
40 SERVED, MAILED OR PUBLISHED, THE DEPARTMENT'S DETERMINATION IS FINAL. IF A
41 TIMELY REQUEST FOR AN ADMINISTRATIVE HEARING HAS BEEN FILED WITH THE
42 DEPARTMENT, THE DEPARTMENT SHALL REQUEST A HEARING BY THE OFFICE OF
43 ADMINISTRATIVE HEARINGS AND THE DEPARTMENT SHALL SUSPEND ACTION UNTIL THE
44 FINAL ORDER OF THE DEPARTMENT HAS BEEN ISSUED. AN ORDER THAT IS ISSUED BY
45 THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL BE THE FINAL ORDER OF THE

1 DEPARTMENT THIRTY DAYS AFTER THE PETITIONER RECEIVES THE DECISION UNLESS A
2 DECISION BY THE DIRECTOR IS ISSUED PURSUANT TO SECTION 42-1251. IF THE
3 DIRECTOR ISSUES A DECISION, THAT DECISION IS THE FINAL ORDER OF THE
4 DEPARTMENT.

5 I. FOR THE PURPOSES OF THIS SECTION, "CIGARETTE" AND "CIGARETTE
6 DISTRIBUTOR" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 42-3001.

7 Sec. 2. Section 42-1125, Arizona Revised Statutes, is amended to read:
8 42-1125. Civil penalties; definition

9 A. If a taxpayer fails to make and file a return for a tax
10 administered pursuant to this article on or before the due date of the return
11 or the due date as extended by the department, then, unless it is shown that
12 the failure is due to reasonable cause and not due to wilful neglect, four
13 and one-half per cent of the tax required to be shown on such return shall be
14 added to the tax for each month or fraction of a month elapsing between the
15 due date of the return and the date on which it is filed. The total penalty
16 shall not exceed twenty-five per cent of the tax found to be remaining due.
17 The penalty so added to the tax is due and payable on notice and demand from
18 the department. For the purpose of computing the penalty imposed under this
19 subsection, the amount required to be shown as tax on a return shall be
20 reduced by the amount of any part of the tax which is paid on or before the
21 beginning of such month and by the amount of any credit against the tax which
22 may be claimed on the return. If the amount required to be shown as tax on a
23 return is less than the amount shown as tax on such return the penalty
24 described in this subsection shall be applied by substituting such lower
25 amount.

26 B. If a taxpayer fails or refuses to file a return on notice and
27 demand by the department, the taxpayer shall pay a penalty of twenty-five per
28 cent of the tax, which is due and payable on notice and demand by the
29 department, in addition to any penalty prescribed by subsection A of this
30 section, unless it is shown that the failure is due to reasonable cause and
31 not due to wilful neglect. This penalty is payable on notice and demand from
32 the department.

33 C. If a taxpayer fails or refuses to furnish any information requested
34 in writing by the department, the department may add a penalty of twenty-five
35 per cent of the amount of any deficiency tax assessed by the department
36 concerning the assessment of which the information was required, unless it is
37 shown that the failure is due to reasonable cause and not due to wilful
38 neglect.

39 D. If a person fails to pay the amount shown as tax on any return
40 within the time prescribed, a penalty of one-half of one per cent, not to
41 exceed a total of ten per cent, shall be added to the amount shown as tax for
42 each month or fraction of a month during which the failure continues, unless
43 it is shown that the failure is due to reasonable cause and not due to wilful
44 neglect. If the department determines that the person's failure to pay was
45 due to reasonable cause and not due to wilful neglect and that a payment

1 agreement pursuant to section 42-2057 is appropriate, the department shall
2 not impose the penalty unless the taxpayer fails to comply with the payment
3 agreement. If the taxpayer is also subject to a penalty under subsection A
4 of this section for the same tax period, the total penalties under subsection
5 A of this section and this subsection shall not exceed twenty-five per cent.
6 For the purpose of computing the penalty imposed under this subsection:
7 1. The amount shown as tax on a return shall be reduced by the amount
8 of any part of the tax that is paid on or before the beginning of that month
9 and by the amount of any credit against the tax that may be claimed on the
10 return.
11 2. If the amount shown as tax on a return is greater than the amount
12 required to be shown as tax on that return, the penalty shall be applied by
13 substituting the lower amount.
14 E. If a person fails to pay any amount required to be shown on any
15 return that is not so shown within twenty-one calendar days after the date of
16 notice and demand, a penalty of one-half of one per cent, not to exceed a
17 total of ten per cent, shall be added to the amount of tax for each month or
18 fraction of a month during which the failure continues, unless it is shown
19 that the failure is due to reasonable cause and not due to wilful neglect.
20 If the taxpayer is also subject to penalty under subsection A of this section
21 for the same tax period, the total penalties under subsection A of this
22 section and this subsection shall not exceed twenty-five per cent. For the
23 purpose of computing the penalty imposed under this subsection, any amount
24 required to be shown on any return shall be reduced by the amount of any part
25 of the tax that is paid on or before the beginning of that month and by the
26 amount of any credit against the tax that may be claimed on the return.
27 F. In the case of a deficiency, for which a determination is made of
28 an additional amount due, which is due to negligence but without intent to
29 defraud, the person shall pay a penalty of ten per cent of the amount of the
30 deficiency.
31 G. If part of a deficiency is due to fraud with intent to evade tax,
32 fifty per cent of the total amount of the tax, in addition to the deficiency,
33 interest and other penalties provided in this section, shall be assessed,
34 collected and paid as if it were a deficiency.
35 H. If the amount, whether determined by the department or the
36 taxpayer, required to be withheld by the employer pursuant to title 43,
37 chapter 4 is not paid to the department on or before the date prescribed for
38 its remittance, the department may add a penalty of twenty-five per cent of
39 the amount required to be withheld and paid, unless it is shown that the
40 failure is due to reasonable cause and not due to wilful neglect.
41 I. A person who, with or without intent to evade any requirement of
42 this article or any lawful administrative rule of the department of revenue
43 under this article, fails to file a return or to supply information required
44 under this article or who, with or without such intent, makes, prepares,
45 renders, signs or verifies a false or fraudulent return or statement or

1 supplies false or fraudulent information shall pay a penalty of not more than
2 one thousand dollars. This penalty shall be recovered by the department of
3 law in the name of this state by an action in any court of competent
4 jurisdiction.

5 J. If the taxpayer files what purports to be a return of any tax
6 administered pursuant to this article but which is frivolous or which is made
7 with the intent to delay or impede the administration of the tax laws, that
8 person shall pay a penalty of five hundred dollars.

9 K. If a taxpayer who is required to file or provide an information
10 return under this title or title 43 fails to file the return at the
11 prescribed time or files a return which fails to show the information
12 required, that taxpayer shall pay a penalty of five hundred dollars unless it
13 is shown that the failure is due to reasonable cause and not due to wilful
14 neglect.

15 L. If it appears to the superior court that proceedings before it have
16 been instituted or maintained by a taxpayer primarily for delay or that the
17 taxpayer's position is frivolous or groundless, the court may award damages
18 in an amount not to exceed one thousand dollars to this state. Damages so
19 awarded shall be collected as a part of the tax.

20 M. A person who is required under section 43-413 to furnish a
21 statement to an employee and who wilfully furnishes a false or fraudulent
22 statement, or who wilfully fails to furnish a statement required by section
23 43-413, is for each such failure subject to a penalty of fifty dollars.

24 N. A person who is required to collect, ~~OR~~ truthfully account for and
25 pay a tax administered pursuant to this article, INCLUDING ANY LUXURY
26 PRIVILEGE TAX, and who wilfully fails to collect the tax or truthfully
27 account for and pay the tax, or wilfully attempts in any manner to evade or
28 defeat the tax or its payment, is, in addition to other penalties provided by
29 law, liable for a penalty equal to the total amount of the tax evaded, not
30 collected or not accounted for and paid. EXCEPT AS PROVIDED IN SUBSECTIONS
31 S, T AND U OF THIS SECTION, no other penalty under this section relating to
32 failure to pay tax may be imposed for any offense to which this subsection
33 applies.

34 O. Unless due to reasonable cause and not to wilful neglect:

35 1. A person who fails to provide his taxpayer identification number in
36 any return, statement or other document as required by section 42-1105,
37 subsection A shall pay a penalty of five dollars for each such failure.

38 2. A person, when filing any return, statement or other document for
39 compensation on behalf of a taxpayer, who fails to include that person's own
40 taxpayer identification number and the taxpayer's identification number shall
41 pay a penalty of fifty dollars for each such failure.

42 3. A person, when filing any return, statement or other document
43 ~~without~~ compensation on behalf of a taxpayer, who fails to include that
44 person's own taxpayer identification number and the taxpayer's identification
45 number is not subject to a penalty.

1 No other penalty under this section may be imposed if the only violation is
2 failure to provide taxpayer identification numbers.

3 P. If a taxpayer fails to pay the full amount of estimated tax
4 required by title 43, chapter 5, article 6, a penalty is assessed equal to
5 the amount of interest that would otherwise accrue under section 42-1123 on
6 the amount not paid for the period of nonpayment, not exceeding ten per cent
7 of the amount not paid. The penalty prescribed by this subsection is in lieu
8 of any other penalty otherwise prescribed by this section and in lieu of
9 interest prescribed by section 42-1123.

10 Q. The department of law may, with the consent of the department of
11 revenue, MAY compromise any penalty for which it may bring an action under
12 this section.

13 R. Penalties shall not be assessed under subsection D of this section
14 on additional amounts of tax paid by a taxpayer at the time the taxpayer
15 voluntarily files an amended return. This subsection does not apply if:

16 1. The taxpayer is under audit by the department.

17 2. The amended return was filed on demand or request by the
18 department.

19 3. The total additional tax paid and due for the tax period represents
20 a substantial understatement of tax liability. For the purposes of this
21 paragraph, there is a substantial understatement of tax for any tax period if
22 the amount of the understatement for the tax period exceeds the greater of
23 ten per cent of the actual tax liability for the tax period or two thousand
24 dollars.

25 S. IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW, A PERSON WHO
26 KNOWINGLY AND INTENTIONALLY DOES NOT COMPLY WITH ANY REQUIREMENT UNDER
27 CHAPTER 3, ARTICLE 5 OF THIS TITLE RELATING TO CIGARETTES SHALL PAY A PENALTY
28 OF ONE THOUSAND DOLLARS. A PERSON WHO KNOWINGLY AND INTENTIONALLY DOES NOT
29 PAY ANY LUXURY TAX THAT RELATES TO CIGARETTES IMPOSED BY CHAPTER 3 OF THIS
30 TITLE SHALL PAY A PENALTY THAT IS EQUAL TO TEN PER CENT OF THE AMOUNT OF THE
31 UNPAID TAX.

32 T. A CIGARETTE MANUFACTURER, CIGARETTE IMPORTER OR CIGARETTE
33 DISTRIBUTOR, AS DEFINED IN SECTION 42-3001, WHO KNOWINGLY AND INTENTIONALLY
34 SELLS OR POSSESSES CIGARETTES WITH FALSE MANUFACTURING LABELS OR CIGARETTES
35 WITH COUNTERFEIT TAX STAMPS, OR WHO OBTAINS CIGARETTES THROUGH THE USE OF A
36 COUNTERFEIT LICENSE, SHALL PAY THE FOLLOWING PENALTIES:

37 1. FOR A FIRST VIOLATION INVOLVING TWO THOUSAND OR MORE CIGARETTES,
38 ONE THOUSAND DOLLARS.

39 2. FOR A SUBSEQUENT VIOLATION INVOLVING TWO THOUSAND OR MORE
40 CIGARETTES, FIVE THOUSAND DOLLARS.

41 U. THE CIVIL PENALTIES IN THIS SECTION ARE IN ADDITION TO ANY CIVIL
42 PENALTY UNDER CHAPTER 3, ARTICLE 5 OF THIS TITLE.

43 ~~S.~~ V. For the purposes of this section, and only as applied to the
44 taxes imposed by chapter 5, articles 1 through 6 and chapter 6, articles 1, 2
45 and 3 of this title, "reasonable cause" means a reasonable basis for the

1 taxpayer to believe that the tax did not apply to the business activity or
2 the storage, use or consumption of the taxpayer's tangible personal property
3 in this state.

4 Sec. 3. Section 42-1127, Arizona Revised Statutes, is amended to read:

5 42-1127. Criminal violations; classifications; place of trial;
6 definition

7 A. It is a class 4 felony to:

8 1. Corruptly or by force or threats of force or injury:

9 (a) Attempt to intimidate, impede or injure an employee of the
10 department acting in an official capacity.

11 (b) Obstruct, impede or attempt to obstruct or impede the
12 administration of this title or title 43.

13 2. Attempt by means of bribery, misrepresentation, intimidation or
14 force or threats of force to obstruct, delay or prevent the communication of
15 information or testimony relating to a violation of this title or title 43 to
16 an employee or officer of the department, or knowingly injure another
17 personally or injure the person's property on account of the person giving,
18 personally or by any other person, any such information or testimony to an
19 employee of the department.

20 3. Make, forge, alter or counterfeit with the intent to defraud a
21 stamp or meter impression prepared or prescribed by the department under
22 chapter 3 of this title, or to knowingly utter, publish, pass or tender as
23 true a false, altered, forged or counterfeited stamp or meter impression, or
24 to use a stamp provided for and required by chapter 3 of this title which has
25 already once been used, with the intent to evade the tax imposed by chapter 3
26 of this title.

27 4. Tamper with, or cause to be tampered with, any metering machine
28 authorized to be used under chapter 3 of this title.

29 B. It is a class 5 felony to:

30 1. Knowingly fail to pay any tax administered pursuant to this article
31 due or believed due by the taxpayer with intent to evade the tax.

32 2. Knowingly prepare, present or aid, procure or advise in preparing
33 or presenting any return, affidavit, claim or other document which is
34 fraudulent or is false as to any material matter, whether or not the falsity
35 or fraud is with the knowledge or consent of the taxpayer authorized or
36 required to present the return, affidavit, claim or document.

37 3. Simulate or falsely or fraudulently execute or sign any license or
38 other required document, or cause the license or document to be falsely or
39 fraudulently executed or advise or aid in such execution, with the intent to
40 conceal or cover up a material fact relating to a tax administered pursuant
41 to this article.

42 4. Knowingly fail to file a return or supply required information, or
43 falsify or conceal a material fact, document or record, make a false,
44 fictitious or fraudulent statement or representation or make or use a false
45 writing or document knowing it to contain a false, fictitious or fraudulent

1 statement or entry, with intent that the department rely on the false,
2 fictitious or fraudulent statement or entry in determining tax liability
3 under this article.

4 C. A CIGARETTE distributor as defined in section 42-3001 who—

5 ~~1.~~ violates section 42-3202, SUBSECTION A, paragraph 2 ~~or section~~
6 ~~42-3204~~ is guilty of a class 1 misdemeanor. If the CIGARETTE distributor is
7 convicted of a second violation of section 42-3202, SUBSECTION A, paragraph 2
8 ~~or section 42-3204~~, the department ~~shall~~ MAY revoke the CIGARETTE
9 distributor's license issued pursuant to section 42-3201.

10 ~~2.~~ D. A DISTRIBUTOR AS DEFINED IN SECTION 42-3001 WHO violates any
11 provision of section 42-3201, section 42-3202, SUBSECTION A, paragraph 1 or
12 section 42-3203 is guilty of a class 1 misdemeanor. If the distributor is A
13 LICENSEE UNDER SECTION 42-3201 AND IS convicted of a second violation of
14 section 42-3203, the department may revoke the distributor's license.

15 ~~D.~~ E. It is a class ~~5~~ 3 felony FOR ANY PERSON TO:

16 1. ~~For an unlicensed distributor, as defined in section 42-3001, to:~~
17 ~~(a)~~ EXCEPT AS PROVIDED IN SECTION 42-3205, transport, in an unstamped
18 or unlawfully stamped condition, for the purpose of sale ten thousand or more
19 cigarettes that were subject to the tax imposed by chapter 3, article 2, 6 or
20 7 of this title.

21 ~~(b)~~ 2. Wilfully sell or offer for sale, in an unstamped or unlawfully
22 stamped condition, ten thousand or more cigarettes that were subject to the
23 tax imposed by chapter 3, article 2, 6 or 7 of this title.

24 ~~2.~~ 3. ~~For any person to~~ Wilfully sell or offer for sale off an Indian
25 reservation ten thousand or more cigarettes that are stamped for
26 on-reservation sales.

27 ~~E.~~ F. For the purposes of subsection ~~D~~ E of this section, the
28 possession or transportation in this state at any time by any person, other
29 than a licensed distributor, as defined in section 42-3001, of ten thousand
30 or more cigarettes in an unstamped or unlawfully stamped condition, OTHER
31 THAN IN INTERSTATE SHIPMENT CONSISTENT WITH THE FEDERAL CONTRABAND CIGARETTE
32 TRAFFICKING ACT OF 1978 (P.L. 95-575; 92 STAT. 2463; 18 UNITED STATES CODE
33 CHAPTER 114), is presumptive evidence that the cigarettes:

34 1. Are possessed or transported for the purpose of sale.

35 2. Are subject to the taxes imposed by chapter 3, article 2, 6 or 7 of
36 this title.

37 ~~F.~~ G. A person who knowingly sells a luxury on which the tax has not
38 been paid or accounted for as required by chapter 3 of this title is guilty
39 of a class 1 misdemeanor.

40 ~~G.~~ H. A retailer who possesses any package, bottle or other container
41 containing a luxury which does not bear the stamps required to be affixed by
42 chapter 3 of this title is guilty of a class 1 misdemeanor.

43 ~~H.~~ I. A person is guilty of a class 3 misdemeanor who:

44 1. Is engaged in the business of selling a luxury, either at wholesale
45 or retail, and who knowingly refuses or fails to produce on demand by the

1 department invoices of all luxuries the person purchased or received within
2 two years immediately before the demand, unless the person shows by
3 satisfactory proof that the person is unable to do so for reasons beyond the
4 person's control.

5 2. Makes a false entry on an invoice, package or container of
6 luxuries, or who with intent to avoid the taxes imposed by chapter 3 of this
7 title presents a false entry for inspection of the department.

8 3. Knowingly prevents or hinders the department from making a full
9 inspection of any place where a luxury is sold or stored, or knowingly
10 prevents or hinders the inspection of invoices, books, records or papers
11 required to be kept.

12 4. Violates any provision of this article or an administrative rule
13 adopted by the department for which no other penalty is prescribed.

14 ~~I.~~ J. The place of trial for the offenses enumerated in this section
15 is in the county of residence or principal place of business of the defendant
16 or defendants. If the defendant has no residence or principal place of
17 business in this state, the trial shall be held in Maricopa county.

18 K. A PERSON WHO DEFRAUDS THIS STATE BY VIOLATING ANY REQUIREMENT UNDER
19 CHAPTER 3 OF THIS TITLE, WITH CRIMINAL INTENT TO EVADE ANY SUCH REQUIREMENT,
20 IS GUILTY OF A CLASS 4 FELONY AND SHALL PAY A PENALTY OF THREE TIMES THE
21 RETAIL VALUE OF THE CIGARETTES INVOLVED.

22 L. A PERSON WHO KNOWINGLY VIOLATES ANY REQUIREMENT UNDER CHAPTER 3 OF
23 THIS TITLE, WITH THE CRIMINAL INTENT TO EVADE ANY SUCH REQUIREMENT, IS GUILTY
24 OF A CLASS 6 FELONY.

25 M. A PERSON WHO KNOWINGLY SELLS OR OFFERS TO SELL OFF AN INDIAN
26 RESERVATION MORE THAN TWO THOUSAND BUT LESS THAN TEN THOUSAND CIGARETTES THAT
27 ARE STAMPED FOR ON-RESERVATION SALES, WITH THE CRIMINAL INTENT TO EVADE THE
28 TAX IMPOSED BY CHAPTER 3 OF THIS TITLE, IS GUILTY OF A CLASS 5 FELONY.

29 N. ANY DISTRIBUTOR, AS DEFINED IN SECTION 42-3001, WHO SELLS OR
30 POSSESSES MORE THAN TWO THOUSAND CIGARETTES WITH FALSE MANUFACTURING LABELS
31 OR CIGARETTES WITH COUNTERFEIT TAX STAMPS, WITH THE CRIMINAL INTENT TO EVADE
32 ANY REQUIREMENT UNDER CHAPTER 3 OF THIS TITLE, IS GUILTY OF A CLASS 5 FELONY
33 AND SHALL PAY A PENALTY OF:

34 1. FOR A FIRST VIOLATION INVOLVING TWO THOUSAND OR MORE CIGARETTES,
35 TWO THOUSAND DOLLARS OR THREE TIMES THE RETAIL VALUE OF THE CIGARETTES,
36 WHICHEVER IS GREATER.

37 2. FOR A SUBSEQUENT VIOLATION INVOLVING TWO THOUSAND OR MORE
38 CIGARETTES, FIFTY THOUSAND DOLLARS OR THREE TIMES THE RETAIL VALUE OF THE
39 CIGARETTES, WHICHEVER IS GREATER.

40 ~~I.~~ O. ~~For~~ FOR THE PURPOSES OF this section, "luxury" means any
41 article, object or device on which a tax is imposed under chapter 3 of this
42 title.

1 Sec. 4. Section 42-2003, Arizona Revised Statutes, is amended to read:
2 42-2003. Authorized disclosure of confidential information

3 A. Confidential information relating to:

4 1. A taxpayer may be disclosed to the taxpayer, its successor in
5 interest or a designee of the taxpayer who is authorized in writing by the
6 taxpayer. A principal corporate officer of a parent corporation may execute
7 a written authorization for a controlled subsidiary.

8 2. A corporate taxpayer may be disclosed to any principal officer, any
9 person designated by a principal officer or any person designated in a
10 resolution by the corporate board of directors or other similar governing
11 body.

12 3. A partnership may be disclosed to any partner of the partnership.
13 This exception does not include disclosure of confidential information of a
14 particular partner unless otherwise authorized.

15 4. An estate may be disclosed to the personal representative of the
16 estate and to any heir, next of kin or beneficiary under the will of the
17 decedent if the department finds that the heir, next of kin or beneficiary
18 has a material interest which will be affected by the confidential
19 information.

20 5. A trust may be disclosed to the trustee or trustees, jointly or
21 separately, and to the grantor or any beneficiary of the trust if the
22 department finds that the grantor or beneficiary has a material interest
23 which will be affected by the confidential information.

24 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
25 to confidentiality either in writing or on the record in any administrative
26 or judicial proceeding.

27 7. The name and taxpayer identification numbers of persons issued
28 direct payment permits may be publicly disclosed.

29 B. Confidential information may be disclosed to:

30 1. Any employee of the department whose official duties involve tax
31 administration.

32 2. The office of the attorney general solely for its use in
33 preparation for, or in an investigation which may result in, any proceeding
34 involving tax administration before the department or any other agency or
35 board of this state, or before any grand jury or any state or federal court.

36 3. The department of liquor licenses and control for its use in
37 determining whether a spirituous liquor licensee has paid all transaction
38 privilege taxes and affiliated excise taxes incurred as a result of the sale
39 of spirituous liquor at the licensed establishment and imposed on the
40 licensed establishments by this state and its political subdivisions.

41 4. Other state tax officials whose official duties require the
42 disclosure for proper tax administration purposes if the information is
43 sought in connection with an investigation or any other proceeding conducted
44 by the official. Any disclosure is limited to information of a taxpayer who

1 is being investigated or who is a party to a proceeding conducted by the
2 official.

3 5. The following agencies, officials and organizations, if they grant
4 substantially similar privileges to the department for the type of
5 information being sought, pursuant to statute and a written agreement between
6 the department and the foreign country, agency, state, Indian tribe or
7 organization:

8 (a) The United States internal revenue service, alcohol and tobacco
9 tax and trade bureau of the United States treasury, United States bureau of
10 alcohol, tobacco, firearms and explosives of the United States department of
11 justice, United States drug enforcement agency and federal bureau of
12 investigation.

13 (b) A state tax official of another state.

14 (c) An organization of states that operates an information exchange
15 for tax administration purposes.

16 (d) An agency, official or organization of a foreign country with
17 responsibilities that are comparable to those listed in subdivision (a), (b)
18 or (c) of this paragraph.

19 (e) An agency, official or organization of an Indian tribal government
20 with responsibilities comparable to the responsibilities of the agencies,
21 officials or organizations identified in subdivision (a), (b) or (c) of this
22 paragraph.

23 6. The auditor general, in connection with any audit of the department
24 subject to the restrictions in section 42-2002, subsection C.

25 7. Any person to the extent necessary for effective tax administration
26 in connection with:

27 (a) The processing, storage, transmission, destruction and
28 reproduction of the information.

29 (b) The programming, maintenance, repair, testing and procurement of
30 equipment for purposes of tax administration.

31 8. The office of administrative hearings relating to taxes
32 administered by the department pursuant to section 42-1101, but the
33 department shall not disclose any confidential information:

34 (a) Regarding income tax, withholding tax or estate tax.

35 (b) On any tax issue relating to information associated with the
36 reporting of income tax, withholding tax or estate tax.

37 9. The United States treasury inspector general for tax administration
38 for the purpose of reporting a violation of internal revenue code section
39 7213A (26 United States Code section 7213A), unauthorized inspection of
40 returns or return information.

41 10. The financial management service of the United States treasury
42 department for use in the treasury offset program.

1 11. The department of commerce for its use in both:

2 (a) Qualifying motion picture production companies for the tax
3 incentives provided for motion picture production under chapter 5 of this
4 title and sections 43-1075 and 43-1163.

5 (b) Fulfilling its annual reporting responsibility pursuant to section
6 41-1517, subsection ~~J~~ K.

7 C. Confidential information may be disclosed in any state or federal
8 judicial or administrative proceeding pertaining to tax administration if the
9 taxpayer is a party to the proceeding.

10 D. Identity information may be disclosed for purposes of notifying
11 persons entitled to tax refunds if the department is unable to locate the
12 persons after reasonable effort.

13 E. The department, upon the request of any person, shall provide the
14 names and addresses of bingo licensees as defined in section 5-401, ~~or~~ verify
15 whether or not a person has a privilege license and number, DISTRIBUTOR'S
16 LICENSE AND NUMBER or withholding license and number OR DISCLOSE THE
17 INFORMATION TO BE POSTED ON THE DEPARTMENT'S WEB SITE OR OTHERWISE PUBLICLY
18 ACCESSIBLE PURSUANT TO SECTIONS 42-1124, SUBSECTION F AND 42-3201,
19 SUBSECTION A.

20 F. A department employee, in connection with the official duties
21 relating to any audit, collection activity or civil or criminal
22 investigation, may disclose return information to the extent that disclosure
23 is necessary to obtain information which is not otherwise reasonably
24 available. These official duties include the correct determination of and
25 liability for tax, the amount to be collected or the enforcement of other
26 state tax revenue laws.

27 G. If an organization is exempt from this state's income tax as
28 provided in section 43-1201 for any taxable year, the name and address of the
29 organization and the application filed by the organization upon which the
30 department made its determination for exemption together with any papers
31 submitted in support of the application and any letter or document issued by
32 the department concerning the application are open to public inspection.

33 H. Confidential information relating to transaction privilege tax, use
34 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
35 be disclosed to any county, city or town tax official if the information
36 relates to a taxpayer who is or may be taxable by the county, city or town.
37 Any taxpayer information released by the department to the county, city or
38 town:

39 1. May only be used for internal purposes.

40 2. May not be disclosed to the public in any manner that does not
41 comply with confidentiality standards established by the department. The
42 county, city or town shall agree in writing with the department that any
43 release of confidential information that violates the confidentiality
44 standards adopted by the department will result in the immediate suspension

1 of any rights of the county, city or town to receive taxpayer information
2 under this subsection.

3 I. The department may disclose statistical information gathered from
4 confidential information if it does not disclose confidential information
5 attributable to any one taxpayer. In order to comply with the requirements
6 of section 42-5029, subsection A, paragraph 3, the department may disclose to
7 the state treasurer statistical information gathered from confidential
8 information, even if it discloses confidential information attributable to a
9 taxpayer.

10 J. The department may disclose the aggregate amounts of any tax
11 credit, tax deduction or tax exemption enacted after January 1, 1994.
12 Information subject to disclosure under this subsection shall not be
13 disclosed if a taxpayer demonstrates to the department that such information
14 would give an unfair advantage to competitors.

15 K. Except as provided in section 42-2002, subsection B, confidential
16 information, described in section 42-2001, paragraph 2, subdivision (a), item
17 (iii), may be disclosed to law enforcement agencies for law enforcement
18 purposes.

19 L. The department may provide transaction privilege tax license
20 information to property tax officials in a county for the purpose of
21 identification and verification of the tax status of commercial property.

22 M. The department may provide transaction privilege tax, luxury tax,
23 use tax, property tax and severance tax information to the ombudsman-citizens
24 aide pursuant to title 41, chapter 8, article 5.

25 N. Except as provided in section 42-2002, subsection C, a court may
26 order the department to disclose confidential information pertaining to a
27 party to an action. An order shall be made only upon a showing of good cause
28 and that the party seeking the information has made demand upon the taxpayer
29 for the information.

30 O. This section does not prohibit the disclosure by the department of
31 any information or documents submitted to the department by a bingo licensee.
32 Before disclosing the information the department shall obtain the name and
33 address of the person requesting the information.

34 P. If the department is required or permitted to disclose confidential
35 information, it may charge the person or agency requesting the information
36 for the reasonable cost of its services.

37 Q. Except as provided in section 42-2002, subsection C, the department
38 of revenue shall release confidential information as requested by the
39 department of economic security pursuant to section 42-1122 or 46-291.
40 Information disclosed under this subsection is limited to the same type of
41 information that the United States internal revenue service is authorized to
42 disclose under section 6103(1)(6) of the internal revenue code.

43 R. Except as provided in section 42-2002, subsection C, the department
44 of revenue shall release confidential information as requested by the courts
45 and clerks of the court pursuant to section 42-1122.

1 S. To comply with the requirements of section 42-5031, the department
2 may disclose to the state treasurer, to the county stadium district board of
3 directors and to any city or town tax official that is part of the county
4 stadium district confidential information attributable to a taxpayer's
5 business activity conducted in the county stadium district.

6 T. The department shall release confidential information as requested
7 by the attorney general for purposes of determining compliance with and
8 enforcing section 44-7101, the master settlement agreement referred to
9 therein and subsequent agreements to which the state is a party that amend or
10 implement the master settlement agreement. Information disclosed under this
11 subsection is limited to luxury tax information relating to tobacco
12 manufacturers, distributors, wholesalers and retailers and information
13 collected by the department pursuant to section 44-7101(2)(j).

14 U. For proceedings before the department, the office of administrative
15 hearings, the board of tax appeals or any state or federal court involving
16 penalties that were assessed against a return preparer or electronic return
17 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
18 information may be disclosed only before the judge or administrative law
19 judge adjudicating the proceeding, the parties to the proceeding and the
20 parties' representatives in the proceeding prior to its introduction into
21 evidence in the proceeding. The confidential information may be introduced
22 as evidence in the proceeding only if the taxpayer's name, the names of any
23 dependents listed on the return, all social security numbers, the taxpayer's
24 address, the taxpayer's signature and any attachments containing any of the
25 foregoing information are redacted and if either:

26 1. The treatment of an item reflected on such return is or may be
27 related to the resolution of an issue in the proceeding.

28 2. Such return or return information relates or may relate to a
29 transactional relationship between a person who is a party to the proceeding
30 and the taxpayer which directly affects the resolution of an issue in the
31 proceeding.

32 V. The department may disclose to the attorney general confidential
33 information received under section 44-7111 and requested by the attorney
34 general for purposes of determining compliance with and enforcing section
35 44-7111. The department and attorney general shall share with each other the
36 information received under section 44-7111, and may share the information
37 with other federal, state or local agencies only for the purposes of
38 enforcement of section 44-7101, section 44-7111 or corresponding laws of
39 other states.

40 Sec. 5. Section 42-3001, Arizona Revised Statutes, is amended to read:

41 42-3001. Definitions

42 In this chapter, unless the context otherwise requires:

43 1. "Affix" and "affixed" includes imprinting tax meter stamps on
44 packages and individual containers as authorized by the department.

1 2. "Cider" means vinous liquor that is made from the normal alcoholic
2 fermentation of the juice of sound, ripe apples, including flavored,
3 sparkling and carbonated cider and cider made from condensed apple must, and
4 that contains more than one-half of one per cent of alcohol by volume but not
5 more than seven per cent of alcohol by volume.

6 3. "Cigar" means any roll of tobacco ~~or any substitute for tobacco~~
7 ~~wrapped with tobacco~~ IN LEAF TOBACCO OR IN ANY SUBSTANCE CONTAINING TOBACCO
8 OTHER THAN ANY ROLL OF TOBACCO THAT IS A CIGARETTE, AS DEFINED IN PARAGRAPH
9 4, SUBDIVISION (b) OF THIS SECTION.

10 4. "Cigarette" means EITHER OF THE FOLLOWING:

11 (a) Any roll of tobacco or any substitute for tobacco wrapped in paper
12 or any substance ~~other than~~ NOT CONTAINING tobacco.

13 (b) ANY ROLL OF TOBACCO WRAPPED IN ANY SUBSTANCE CONTAINING TOBACCO
14 THAT, BECAUSE OF ITS APPEARANCE, THE TYPE OF TOBACCO USED IN THE FILLER OR
15 ITS PACKAGING AND LABELING, IS LIKELY TO BE OFFERED TO OR PURCHASED BY A
16 CONSUMER AS A CIGARETTE DESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH. THIS
17 SUBDIVISION SHALL BE INTERPRETED CONSISTENTLY WITH THE CLASSIFICATION
18 GUIDELINES ESTABLISHED BY THE FEDERAL ALCOHOL AND TOBACCO TAX AND TRADE
19 BUREAU.

20 5. "CIGARETTE DISTRIBUTOR" MEANS A DISTRIBUTOR OF CIGARETTES WITHOUT
21 STAMPS AFFIXED AS REQUIRED BY THIS ARTICLE WHO IS REQUIRED TO BE LICENSED
22 UNDER SECTION 42-3201. CIGARETTE DISTRIBUTOR DOES NOT INCLUDE A RETAILER OR
23 ANY PERSON WHO HOLDS A PERMIT AS A CIGARETTE MANUFACTURER, EXPORT WAREHOUSE
24 PROPRIETOR OR IMPORTER UNDER 26 UNITED STATES CODE SECTION 5712 IF THE PERSON
25 SELLS OR DISTRIBUTES CIGARETTES IN THIS STATE ONLY TO LICENSED CIGARETTE
26 DISTRIBUTORS OR TO ANOTHER PERSON WHO HOLDS A PERMIT UNDER 26 UNITED STATES
27 CODE SECTION 5712 AS AN EXPORT WAREHOUSE PROPRIETOR OR MANUFACTURER.

28 6. "CIGARETTE IMPORTER" MEANS A DISTRIBUTOR WHO DIRECTLY OR INDIRECTLY
29 IMPORTS INTO THE UNITED STATES A FINISHED CIGARETTE FOR SALE OR DISTRIBUTION
30 AND WHO IS REQUIRED TO BE LICENSED UNDER SECTION 42-3201.

31 7. "CIGARETTE MANUFACTURER" MEANS A DISTRIBUTOR WHO MANUFACTURES,
32 FABRICATES, ASSEMBLES, PROCESSES OR LABELS A FINISHED CIGARETTE AND WHO IS
33 REQUIRED TO BE LICENSED UNDER SECTION 42-3201.

34 8. "CONSUMER" MEANS A PERSON IN THIS STATE WHO COMES INTO POSSESSION
35 OF ANY LUXURY SUBJECT TO THE TAX IMPOSED BY THIS CHAPTER AND WHO, ON COMING
36 INTO POSSESSION OF THE LUXURY, IS NOT A DISTRIBUTOR INTENDING TO SELL OR
37 DISTRIBUTE THE LUXURY, RETAILER OR WHOLESALER.

38 ~~5-~~ 9. "Distributor" means any person who manufactures, produces,
39 ships, transports or imports into this state or in any manner acquires or
40 possesses for the purpose of making the first sale of the following:

41 (a) Cigarettes without stamps affixed as required by this article.

42 (b) ~~Cigars or~~ Other tobacco products upon which the taxes have not
43 been paid as required by this chapter.

44 ~~6-~~ 10. "Domestic farm winery" means a domestic farm winery licensed
45 pursuant to title 4, chapter 2, article 1.

1 7- 11. "Domestic microbrewery" means a domestic microbrewery licensed
2 pursuant to title 4, chapter 2, article 1.

3 8- 12. "First sale" means the ~~first~~ INITIAL sale or distribution in
4 intrastate commerce or the ~~first~~ INITIAL use or consumption of cigarettes,
5 cigars or other tobacco products.

6 9- 13. "Luxury" means any article, object or device upon which a tax
7 is imposed under the ~~provisions of~~ this chapter.

8 10- 14. "Malt liquor" means any liquid that contains more than
9 one-half of one per cent alcohol by volume and that is made by the process of
10 fermentation and not distillation of hops or grains, but not including:

11 (a) Liquids made by the process of distillation of such substances.

12 (b) Medicines that are unsuitable for beverage purposes.

13 11- 15. "Person" means any individual, firm, partnership, joint
14 venture, association, corporation, municipal corporation, estate, trust,
15 club, society or other group or combination acting as a unit, and the plural
16 as well as the singular number.

17 12- 16. "Retailer" means any person who comes into possession of
18 ~~spirituous, vinous or malt liquor~~ ANY LUXURY subject to the taxes imposed by
19 this chapter for the purpose of selling it for consumption and not for
20 resale.

21 13- 17. "Spirituous liquor" means any liquid that contains more than
22 one-half of one per cent alcohol by volume, that is produced by distillation
23 of any fermented substance and that is used or prepared for use as a
24 beverage. Spirituous liquor does not include medicines that are unsuitable
25 for beverage purposes.

26 18. "TOBACCO PRODUCTS" MEANS ALL LUXURIES INCLUDED IN SECTION 42-3052,
27 PARAGRAPHS 5 THROUGH 9, EXCEPT THAT FOR THE PURPOSES OF ARTICLE 5.1 OF THIS
28 CHAPTER TOBACCO PRODUCTS HAS THE SAME MEANING PRESCRIBED IN SECTION 42-3221.

29 14- 19. "Vinous liquor" means any liquid that contains more than
30 one-half of one per cent alcohol by volume and that is made by the process of
31 fermentation of grapes, berries, fruits, vegetables or other substances but
32 does not include:

33 (a) Liquids in which hops or grains are used in the process of
34 fermentation.

35 (b) Liquids made by the process of distillation of hops or grains.

36 (c) Medicines that are unsuitable for beverage purposes.

37 15- 20. "Wholesaler" means a person who sells any spirituous, vinous
38 or malt liquor taxed under this chapter to retail dealers or for the purposes
39 of resale only.

40 Sec. 6. Section 42-3004, Arizona Revised Statutes, is amended to read:

41 42-3004. Rules

42 The department may:

43 1. Adopt rules, not in conflict with this chapter, necessary for the
44 enforcement of this chapter, including rules relating to refunds of taxes
45 paid under this chapter.

1 2. Adopt different detailed rules applicable to diverse methods and
2 conditions of sale or use of the luxuries upon which a tax is imposed by this
3 chapter.

4 3. Prescribe in each luxury classification:

5 (a) Upon whom, as between the distributor, the wholesaler and the
6 retailer or between the owner, lessor or other person in possession of any
7 luxury, EXCEPT FOR CIGARETTES, the primary duty of affixing official stamps
8 or official labels rests.

9 (b) The manner in which the stamps or labels shall be affixed.

10 Sec. 7. Section 42-3006, Arizona Revised Statutes, is amended to read:
11 42-3006. Revenue stamps

12 A. The department shall prepare and have on hand official adhesive
13 stamps of the various types according to the classifications set forth in
14 section 42-3052 of luxuries upon which a tax is imposed by this chapter.

15 B. The stamps shall be of a character so that they cannot be removed
16 when once attached to an article without destroying them.

17 C. The stamps shall be printed in the form and manner prescribed by
18 the director.

19 D. IN LIEU OF PURCHASING OFFICIAL TAX STAMPS FOR CIGARETTES, A
20 REGISTERED INDIVIDUAL DESCRIBED IN SECTION 42-3201, SUBSECTION C MUST PAY ALL
21 APPLICABLE TAXES IMPOSED BY THIS CHAPTER AND CHAPTER 5, ARTICLE 4 OF THIS
22 TITLE AND FILE A RETURN IN A FORM AND MANNER PRESCRIBED BY THE DEPARTMENT.

23 E. THE DEPARTMENT SHALL PRESCRIBE BY RULE OR PROCEDURE THE METHOD AND
24 MANNER IN WHICH STAMPS ARE TO BE AFFIXED TO CIGARETTES AND MAY PROVIDE FOR
25 THE CANCELLATION OF STAMPS.

26 F. CIGARETTE STAMPS SHALL ALSO MEET THE REQUIREMENTS OF ARTICLE 5 OF
27 THIS CHAPTER.

28 Sec. 8. Section 42-3006, Arizona Revised Statutes, as amended by
29 section 7 of this act, is amended to read:

30 42-3006. Revenue stamps

31 A. The department shall prepare and have on hand official adhesive
32 stamps of the various types according to the classifications set forth in
33 section 42-3052 of luxuries upon which a tax is imposed by this chapter.

34 B. The stamps shall be of a character so that they cannot be removed
35 when once attached to an article without destroying them.

36 C. The stamps shall be printed in the form and manner prescribed by
37 the director.

38 D. ~~In lieu of purchasing official tax stamps for cigarettes,~~ A
39 registered individual described in section 42-3201, subsection C must pay all
40 applicable taxes imposed by this chapter and chapter 5, article 4 of this
41 title and file a return in a form and manner prescribed by the department. ON
42 RECEIVING A COMPLETED RETURN AND TAX PAYMENT FROM A REGISTERED INDIVIDUAL,
43 THE DEPARTMENT SHALL PREPARE AND PROVIDE TO THE REGISTERED INDIVIDUAL TAX
44 STAMPS IN A QUANTITY SUFFICIENT TO STAMP THE CIGARETTE PACKAGES FOR WHICH THE
45 REGISTERED INDIVIDUAL FILED THE RETURN AND REMITTED TAX. THE STAMPS MAY VARY

1 FROM THE REQUIREMENTS OTHERWISE PROVIDED IN THIS CHAPTER, EXCEPT THAT THE
2 STAMPS SHALL BE OF A CHARACTER SO THAT THE STAMPS CANNOT BE REMOVED IF
3 ATTACHED TO AN ARTICLE WITHOUT BEING DESTROYED. THE REGISTERED INDIVIDUAL
4 SHALL AFFIX THE STAMPS TO THE CIGARETTE PACKAGES TO INDICATE THAT THE
5 REGISTERED INDIVIDUAL HAS PAID ALL APPLICABLE TAXES ON THE CIGARETTES AND
6 THAT THE CIGARETTES CANNOT BE SOLD, BARTERED, EXCHANGED OR OTHERWISE
7 TRANSFERRED FROM THE POSSESSION OF THE REGISTERED INDIVIDUAL.

8 E. The department shall prescribe by rule or procedure the method and
9 manner in which stamps are to be affixed to cigarettes and may provide for
10 the cancellation of stamps.

11 F. Cigarette stamps shall also meet the requirements of article 5 of
12 this chapter.

13 Sec. 9. Section 42-3007, Arizona Revised Statutes, is amended to read:

14 42-3007. Manner of affixing stamps

15 A. Every stamp required under this chapter shall be securely affixed
16 to some visible part of the package or container to which it will firmly
17 adhere during possession by the consumer, except as otherwise provided.
18 CIGARETTE STAMPS SHALL ALSO MEET THE REQUIREMENTS OF ARTICLE 5 OF THIS
19 CHAPTER.

20 ~~B. For purposes of this section, "consumer" means a person who comes~~
21 ~~into possession of any luxuries subject to the tax imposed by this chapter~~
22 ~~for the purpose of using, giving away or disposing of the luxuries in any~~
23 ~~manner other than by sale, barter or exchange.~~

24 Sec. 10. Section 42-3010, Arizona Revised Statutes, is amended to
25 read:

26 42-3010. Transaction invoices and other records; retention period

27 A. When any wholesaler or distributor in this state sells or delivers
28 to any person any of the luxuries on which a tax is imposed by this chapter,
29 the wholesaler or distributor shall make a duplicate invoice of the
30 transaction, showing the date of delivery, the amount and value of each sale,
31 shipment or consignment, and the name and location of the purchaser or person
32 to whom delivery is made. The wholesaler or distributor shall file and
33 retain the invoice for a period of two years, subject to inspection and use
34 by the department.

35 B. Every wholesaler, distributor or retailer shall procure and retain
36 invoices showing the amount and value of each purchase or shipment of any
37 luxuries received, the date of the shipment, the name and location of the
38 shipper and the value of the purchase or shipment. The wholesaler,
39 distributor or retailer shall retain the invoices for a period of two years,
40 subject to inspection and use by the department, EXCEPT AS OTHERWISE PROVIDED
41 FOR CIGARETTE MANUFACTURERS, CIGARETTE IMPORTERS AND CIGARETTE DISTRIBUTORS
42 IN SECTION 42-3212.

43 C. TRANSACTIONS THAT INVOLVE CIGARETTES SHALL ALSO MEET THE
44 REQUIREMENTS OF ARTICLE 5 OF THIS CHAPTER.

1 Sec. 11. Section 42-3053, Arizona Revised Statutes, is amended to
2 read:

3 42-3053. Method of payment; receipts

4 All remittances of taxes imposed by this chapter, INCLUDING REMITTANCES
5 FOR THE PURCHASE OF STAMPS, shall be made by bank draft, check, cashier's
6 check, money order or money to the department, which shall issue receipts to
7 the taxpayers. A remittance other than cash does not constitute a final
8 discharge of liability for the tax levied by this chapter until it has been
9 paid in cash to the department.

10 Sec. 12. Section 42-3151, Arizona Revised Statutes, is amended to
11 read:

12 42-3151. Inspection of records and stocks of luxuries

13 A. All books, papers, invoices and records of any wholesaler,
14 distributor or retailer whether or not required under this chapter to be
15 kept, showing sales, receipts and purchases of luxuries, shall be open for
16 inspection by the department at all times ~~during the usual business hours~~ AS
17 PROVIDED IN SUBSECTION C.

18 B. Any stock of luxuries in and upon any ~~premises~~ BUILDING, FACILITY,
19 SITE OR PLACE where placed, PRODUCED, stored or sold may be ~~examined~~
20 INSPECTED by the department to determine compliance with this chapter.

21 C. EXCEPT AS PROVIDED IN SUBSECTION D, ANY INSPECTION MUST BEGIN
22 DURING THE NORMAL BUSINESS HOURS OF THE BUILDING, FACILITY, SITE OR PLACE
23 BEING INSPECTED.

24 D. ANY INSPECTION THAT DOES NOT BEGIN DURING NORMAL BUSINESS HOURS
25 REQUIRES A JUDICIAL WARRANT OR THE PRIOR WRITTEN CONSENT OF THE WHOLESALER,
26 DISTRIBUTOR OR RETAILER.

27 Sec. 13. Section 42-3201, Arizona Revised Statutes, is amended to
28 read:

29 42-3201. Licenses

30 A. Every distributor acquiring or possessing for the purpose of making
31 the ~~first~~ INITIAL sale OR DISTRIBUTION in this state OF any tobacco,
32 ~~cigarettes or cigars~~ PRODUCTS on which a tax is imposed by this chapter shall
33 obtain from the department a license TO SELL TOBACCO PRODUCTS. The
34 application for the license shall be in the form provided by the department
35 and shall be accompanied by a fee of twenty-five dollars. THE FORM SHALL
36 STATE THAT THE IDENTITY OF THE APPLICANT MAY BE POSTED TO THE DEPARTMENT'S
37 WEB SITE FOR PUBLIC INSPECTION. THE APPLICATION FOR A LICENSE SHALL INCLUDE
38 THE APPLICANT'S NAME AND ADDRESS, THE APPLICANT'S PRINCIPAL PLACE OF
39 BUSINESS, LOCATIONS WHERE THE APPLICANT'S BUSINESS IS CONDUCTED IN THIS STATE
40 AND ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT. IF THE APPLICANT IS A
41 FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP
42 OR ASSOCIATION, THE APPLICANT SHALL LIST THE NAME AND ADDRESS OF EACH OF THE
43 APPLICANT'S MEMBERS. IF THE APPLICANT IS A CORPORATION, THE APPLICATION SHALL
44 LIST THE NAME AND ADDRESS OF THE APPLICANT'S OFFICERS AND ANY PERSON WHO
45 DIRECTLY OR INDIRECTLY OWNS AN AGGREGATE AMOUNT OF TEN PER CENT OR MORE OF

1 THE OWNERSHIP INTEREST IN THE CORPORATION. IF A LICENSEE CHANGES ITS
2 BUSINESS LOCATION, THE LICENSEE UNDER THIS SUBSECTION SHALL NOTIFY THE
3 DEPARTMENT WITHIN THIRTY DAYS AFTER A CHANGE IN LOCATION.

4 B. The department shall issue a license authorizing the applicant to
5 acquire or possess tobacco, ~~cigarettes and cigars~~ PRODUCTS in this state upon
6 the condition that the applicant complies with this chapter and the rules of
7 the department. The license:

8 1. Shall be nontransferable.

9 2. Shall be valid for one year unless earlier revoked by the
10 department.

11 3. Shall, for an applicant selling or offering for sale tobacco,
12 cigarettes and cigars, be displayed in the applicant's place of business.

13 C. AN INDIVIDUAL WHO ACQUIRES OR POSSESSES UNSTAMPED CIGARETTES SOLELY
14 FOR THAT INDIVIDUAL'S OWN USE OR CONSUMPTION IN THIS STATE MUST REGISTER WITH
15 THE DEPARTMENT ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT TO
16 REMIT TAXES IMPOSED BY THIS CHAPTER AND CHAPTER 5, ARTICLE 4 OF THIS TITLE.
17 THE REGISTRATION IS FREE OF CHARGE. ON REGISTRATION, THE INDIVIDUAL MUST PAY
18 ALL APPLICABLE TAXES IMPOSED BY THIS CHAPTER AND CHAPTER 5, ARTICLE 4 OF THIS
19 TITLE AND FILE ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT WITHIN
20 TEN CALENDAR DAYS AFTER RECEIPT OF UNSTAMPED CIGARETTES.

21 D. AN INDIVIDUAL MUST BE LICENSED AS A CIGARETTE DISTRIBUTOR IF THE
22 INDIVIDUAL ACQUIRES OR POSSESSES UNSTAMPED CIGARETTES IN THIS STATE FOR SALE,
23 BARTER OR EXCHANGE OR FOR ANY OTHER PURPOSE BESIDES OR IN ADDITION TO THAT
24 INDIVIDUAL'S OWN USE OR CONSUMPTION.

25 ~~E.~~ E. A person who is convicted of an offense described in section
26 42-1127, subsection ~~D~~- E is permanently ineligible to hold a license issued
27 under this section.

28 F. THE DEPARTMENT MAY NOT ISSUE OR RENEW A LICENSE TO AN APPLICANT AND
29 MAY REVOKE A LICENSE ISSUED UNDER SUBSECTION B OF THIS SECTION IF ANY OF THE
30 FOLLOWING APPLY:

31 1. THE APPLICANT OWES ONE THOUSAND DOLLARS OR MORE IN DELINQUENT
32 CIGARETTE TAXES THAT ARE NOT UNDER PROTEST OR SUBJECT TO A PAYMENT AGREEMENT.

33 2. THE DEPARTMENT HAS REVOKED ANY LICENSE HELD BY THE APPLICANT WITHIN
34 THE PREVIOUS TWO YEARS.

35 3. THE APPLICANT HAS BEEN CONVICTED OF A CRIME THAT RELATES TO STOLEN
36 OR COUNTERFEIT CIGARETTES.

37 4. THE APPLICANT HAS IMPORTED CIGARETTES INTO THE UNITED STATES FOR
38 SALE OR DISTRIBUTION IN VIOLATION OF 19 UNITED STATES CODE SECTION 1681a.

39 5. THE APPLICANT HAS IMPORTED CIGARETTES INTO THE UNITED STATES FOR
40 SALE OR DISTRIBUTION WITHOUT FULLY COMPLYING WITH THE FEDERAL CIGARETTE
41 LABELING AND ADVERTISING ACT (P.L. 89-92; 79 STAT. 282; 15 UNITED STATES CODE
42 SECTION 1331).

43 G. IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL PENALTY, THE DEPARTMENT
44 MAY SUSPEND OR REVOKE A LICENSE ISSUED UNDER SUBSECTION B OF THIS SECTION IF
45 THE PERSON VIOLATES ANY REQUIREMENT UNDER THIS TITLE MORE THAN TWO TIMES

1 WITHIN A THREE-YEAR PERIOD. A SUSPENSION OR REVOCATION UNDER THIS SUBSECTION
2 SHALL COMPLY WITH SECTION 41-1092.11, SUBSECTION B.

3 H. THE DEPARTMENT SHALL PUBLISH ON ITS WEB SITE THE NAMES OF EACH
4 PERSON WHO IS ISSUED A LICENSE UNDER SUBSECTION B OF THIS SECTION. THE
5 DEPARTMENT SHALL UPDATE THE PUBLISHED NAMES AT LEAST ONCE EACH MONTH.

6 Sec. 14. Title 42, chapter 3, article 5, Arizona Revised Statutes, is
7 amended by adding section 42-3201.01, to read:

8 42-3201.01. Transactions with licensed cigarette manufacturers,
9 importers and distributors

10 A. A CIGARETTE MANUFACTURER OR CIGARETTE IMPORTER MAY SELL OR
11 DISTRIBUTE CIGARETTES TO A PERSON WHO IS LOCATED OR DOING BUSINESS IN THIS
12 STATE, INCLUDING INDIAN RESERVATIONS LOCATED IN THIS STATE, ONLY IF THE
13 PERSON IS A LICENSED CIGARETTE IMPORTER OR CIGARETTE DISTRIBUTOR OR THE
14 CIGARETTE MANUFACTURER SELLS OR DISTRIBUTES CIGARETTES ON WHICH A TAX HAS
15 BEEN PAID PURSUANT TO SECTION 42-3202.

16 B. A CIGARETTE IMPORTER MAY OBTAIN CIGARETTES ONLY FROM A LICENSED
17 CIGARETTE MANUFACTURER OR LICENSED CIGARETTE IMPORTER.

18 C. A CIGARETTE DISTRIBUTOR MAY SELL OR DISTRIBUTE CIGARETTES TO A
19 PERSON LOCATED OR DOING BUSINESS IN THIS STATE, INCLUDING AN INDIAN
20 RESERVATION IN THIS STATE, ONLY IF THE CIGARETTE DISTRIBUTOR IS A LICENSED
21 CIGARETTE DISTRIBUTOR.

22 D. A CIGARETTE DISTRIBUTOR SHALL OBTAIN CIGARETTES ONLY FROM A
23 LICENSED CIGARETTE MANUFACTURER, CIGARETTE IMPORTER OR CIGARETTE DISTRIBUTOR.

24 Sec. 15. Section 42-3202, Arizona Revised Statutes, is amended to
25 read:

26 42-3202. Payment of tax required to sell tobacco products

27 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a ~~distributor~~
28 PERSON may not:

29 1. Sell or offer for sale any tobacco, ~~cigarettes or cigars~~ PRODUCTS
30 upon which a tax is imposed by this article to any person within this state
31 unless AT THE TIME OF THE SALE, DISTRIBUTION OR TRANSFER the tax has been
32 paid on the tobacco, ~~cigarettes or cigars~~ PRODUCTS as evidenced by a stamp or
33 any other official indicia.

34 2. Sell cigarettes that have tax stamps affixed unless the tax
35 evidenced by the stamps is actually paid. The department shall not refund
36 any amount of that tax on the grounds that the stamps are not required to be
37 affixed to the cigarettes.

38 B. A DISTRIBUTOR LICENSED PURSUANT TO SECTION 42-3201 MAY SELL,
39 DISTRIBUTE OR TRANSFER TOBACCO PRODUCTS FOR WHICH THE DISTRIBUTOR IS LICENSED
40 TO ANOTHER SUCH LICENSED DISTRIBUTOR WITHOUT PAYING THE TAX AT THE TIME OF
41 THE SALE, DISTRIBUTION OR TRANSFER.

1 Sec. 16. Title 42, chapter 3, article 5, Arizona Revised Statutes, is
2 amended by adding sections 42-3202.01, 42-3202.02 and 42-3202.03, to read:

3 42-3202.01. Presumption of tax on unstamped cigarettes

4 EXCEPT AS OTHERWISE PROVIDED IN SECTION 42-1127, SUBSECTION F, SECTION
5 42-3202, SUBSECTION B AND SECTION 42-3203, SUBSECTION C, FOR THE PURPOSE OF
6 PROPER ADMINISTRATION AND TO PREVENT EVASION OF THE TAXES IMPOSED BY THIS
7 CHAPTER, UNTIL THE CONTRARY IS ESTABLISHED, IT IS PRESUMED THAT CIGARETTES
8 THAT ARE SOLD, DISTRIBUTED, USED OR CONSUMED BY A PERSON IN THIS STATE, BUT
9 NOT PLACED IN PACKAGES OR CONTAINERS ON WHICH OFFICIAL TAX STAMPS ARE
10 AFFIXED, ARE INTENDED FOR FIRST SALE BY THE PERSON AND ARE SUBJECT TO THE
11 TAXES IMPOSED BY THIS CHAPTER.

12 42-3202.02. Exemptions and exclusions of certain unstamped
13 tobacco products from luxury tax

14 A. THE TAXES IMPOSED BY THIS CHAPTER DO NOT APPLY TO:

15 1. TOBACCO PRODUCTS THAT ARE SOLD TO THE UNITED STATES ARMY, AIR
16 FORCE, NAVY, MARINE CORPS OR COAST GUARD EXCHANGES AND COMMISSARIES AND NAVY
17 OR COAST GUARD SHIPS' STORES.

18 2. TOBACCO PRODUCTS THAT ARE SOLD TO THE UNITED STATES VETERANS'
19 ADMINISTRATION.

20 3. TOBACCO PRODUCTS THAT ARE NON-TAX-PAID UNDER SUBTITLE E, CHAPTER 52
21 OF THE INTERNAL REVENUE CODE AND THAT ARE UNDER INTERNAL REVENUE BOND OR
22 CUSTOMS CONTROL.

23 4. TOBACCO PRODUCTS THAT ARE SOLD OR TRANSFERRED TO A LAW ENFORCEMENT
24 AGENCY FOR USE IN A CRIMINAL INVESTIGATION IF THE SALE OR TRANSFER IS
25 AUTHORIZED BY THE DEPARTMENT. A LAW ENFORCEMENT AGENCY AUTHORIZED BY THE
26 DEPARTMENT TO RECEIVE OR PURCHASE TOBACCO PRODUCTS IS NOT REQUIRED TO:

27 (a) BE LICENSED AS A DISTRIBUTOR.

28 (b) COLLECT OR REMIT THE TAX IMPOSED BY THIS CHAPTER WITH RESPECT TO
29 AUTHORIZED DISTRIBUTIONS.

30 5. TOBACCO PRODUCTS THAT ARE SOLD BY A DISTRIBUTOR LICENSED UNDER
31 SECTION 42-3201 TO A COMMON CARRIER ENGAGED IN FOREIGN PASSENGER SERVICE OR
32 TO A RETAILER THAT SELLS TOBACCO PRODUCTS ON THE FACILITIES OF THE CARRIER
33 THAT ARE DEDICATED TO FOREIGN PASSENGER SERVICE.

34 6. FEDERALLY TAX FREE TOBACCO PRODUCTS THAT ARE SOLD OR GIVEN FOR
35 DELIVERY DIRECTLY FROM THE MANUFACTURER UNDER INTERNAL REVENUE BOND TO A
36 VETERANS' HOME OF THIS STATE OR A HOSPITAL OR DOMICILIARY FACILITY OF THE
37 UNITED STATES VETERANS' ADMINISTRATION FOR GRATUITOUS ISSUE TO VETERANS
38 RECEIVING HOSPITALIZATION OR DOMICILIARY CARE. THE TAXES ARE NOT IMPOSED
39 WITH RESPECT TO THE USE OR CONSUMPTION OF THE TOBACCO PRODUCTS BY THE
40 INSTITUTION, VETERAN PATIENTS OR DOMICILIARIES.

41 7. TOBACCO PRODUCTS THAT ARE SOLD BY A MANUFACTURER TO A DISTRIBUTOR
42 LICENSED UNDER SECTION 42-3201.

43 8. TOBACCO PRODUCTS THAT ARE MANUFACTURED OUTSIDE THE UNITED STATES
44 AND THAT ARE SOLD BY AN IMPORTER TO A DISTRIBUTOR LICENSED UNDER SECTION
45 42-3201.

1 B. SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS SECTION DO NOT APPLY AFTER
2 THE FIRST DAY OF THE FIRST CALENDAR MONTH BEGINNING MORE THAN SIXTY DAYS
3 AFTER EXISTING FEDERAL LAW IS AMENDED TO PERMIT STATE TAXATION OF CIGARETTES
4 SOLD BY OR THROUGH FEDERAL MILITARY INSTALLATIONS.

5 C. SALES OF TOBACCO PRODUCTS BY A LICENSED DISTRIBUTOR TO AN
6 INSTRUMENTALITY OF THE UNITED STATES GOVERNMENT MUST BE SUPPORTED BY A
7 SEPARATE SALES INVOICE AND A PROPERLY COMPLETED FEDERAL EXEMPTION
8 CERTIFICATE. EACH SALES INVOICE MUST BE NUMBERED, BE DATED AND SHOW THE NAME
9 OF THE SELLER, THE NAME OF THE PURCHASER AND THE DESTINATION.

10 D. THIS SECTION DOES NOT AFFECT THE IMPOSITION OF TRANSACTION
11 PRIVILEGE AND USE TAXES PURSUANT TO CHAPTER 5 OF THIS TITLE TO ANY
12 TRANSACTIONS DESCRIBED IN SUBSECTION A OF THIS SECTION IF THE TRANSACTION IS
13 OTHERWISE SUBJECT TO TRANSACTION PRIVILEGE TAX OR USE TAX.

14 E. THE EXEMPTIONS AND EXCLUSIONS PROVIDED IN SUBSECTION A OF THIS
15 SECTION DO NOT AFFECT THE TAXABILITY UNDER THIS CHAPTER OF TOBACCO PRODUCTS
16 THAT ARE SOLD, GIVEN OR TRANSFERRED TO A PERSON IN THIS STATE SUBSEQUENT TO
17 THE TRANSACTIONS DESCRIBED IN SUBSECTION A OF THIS SECTION.

18 42-3202.03. Cigarette stamps

19 A. EACH ROLL OR SHEET OF STAMPS FOR CIGARETTES THAT ARE REQUIRED UNDER
20 THIS CHAPTER SHALL HAVE A SEPARATE SERIAL NUMBER THAT IS LEGIBLE AT THE POINT
21 OF SALE TO THE CIGARETTE DISTRIBUTOR. THE DEPARTMENT SHALL USE THE SERIAL
22 NUMBER TO KEEP RECORDS OF EACH CIGARETTE DISTRIBUTOR WHO PURCHASES EACH ROLL
23 OR SHEET OF STAMPS. THE DEPARTMENT SHALL NOT SELL STAMPS THAT HAVE THE SAME
24 SERIAL NUMBER TO MORE THAN ONE CIGARETTE DISTRIBUTOR. THE DEPARTMENT MAY
25 SELL A PARTIAL ROLL OR SHEET OF STAMPS TO A CIGARETTE DISTRIBUTOR AND SHALL
26 RETAIN THE REMAINDER OF THE ROLL OR SHEET TO SUBSEQUENTLY SELL TO THE SAME
27 CIGARETTE DISTRIBUTOR OR SHALL DESTROY THE REMAINDER OF THE ROLL OR SHEET.

28 B. ONLY LICENSED CIGARETTE DISTRIBUTORS MAY PURCHASE, OBTAIN OR AFFIX
29 CIGARETTE STAMPS. CIGARETTE DISTRIBUTORS SHALL NOT SELL OR PROVIDE STAMPS TO
30 ANY OTHER CIGARETTE DISTRIBUTOR OR PERSON. WHEN AFFIXING CIGARETTE STAMPS TO
31 CIGARETTES, CIGARETTE DISTRIBUTORS SHALL ENSURE THAT THE AFFIXATION METHOD
32 THAT IS USED MAINTAINS THE LEGIBILITY OF THE SERIAL NUMBERS ON THE STAMPS.

33 C. THE DEPARTMENT MAY AUTHORIZE THE USE OF A METERING MACHINE. IF THE
34 DEPARTMENT AUTHORIZES THE USE OF A METERING MACHINE, THE DEPARTMENT SHALL
35 ASSIGN A UNIQUE METER IMPRESSION NUMBER TO EACH CIGARETTE DISTRIBUTOR AND
36 ENSURE THAT THE IMPRESSION IS LEGIBLE AT THE POINT OF SALE. THE DEPARTMENT
37 SHALL KEEP RECORDS THAT INDICATE THE ASSIGNED METER IMPRESSION NUMBER FOR
38 EACH CIGARETTE DISTRIBUTOR.

39 Sec. 17. Section 42-3202.03, Arizona Revised Statutes, as added by
40 section 16 of this act, is amended to read:

41 42-3202.03. Cigarette stamps

42 A. Each roll or sheet of stamps for cigarettes that are required under
43 this chapter shall have a separate serial number that is legible at the point
44 of sale to the cigarette distributor. The department shall use the serial
45 number to keep records of each cigarette distributor who purchases each roll

1 or sheet of stamps. The department shall not sell stamps that have the same
2 serial number to more than one cigarette distributor. The department may
3 sell a partial roll or sheet of stamps to a cigarette distributor and shall
4 retain the remainder of the roll or sheet to subsequently sell to the same
5 cigarette distributor or shall destroy the remainder of the roll or sheet.
6 THE CIGARETTE STAMPS DESCRIBED IN SECTION 42-3006, SUBSECTION D MAY VARY FROM
7 THE REQUIREMENTS IN THIS SUBSECTION, EXCEPT THAT THE STAMPS MUST HAVE A
8 SEPARATE SERIAL NUMBER THAT ALLOWS THE DEPARTMENT TO IDENTIFY THE REGISTERED
9 INDIVIDUAL TO WHOM THE DEPARTMENT CONVEYED THE STAMPS AND THE RETURN FOR
10 WHICH THE DEPARTMENT CONVEYED THE STAMPS.

11 B. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, only licensed
12 cigarette distributors may purchase, obtain or affix cigarette stamps.
13 Cigarette distributors shall not sell or provide stamps to any other
14 cigarette distributor or person. When affixing cigarette stamps to
15 cigarettes, cigarette distributors shall ensure that the affixation method
16 that is used maintains the legibility of the serial numbers on the stamps.

17 C. The department may authorize the use of a metering machine. If the
18 department authorizes the use of a metering machine, the department shall
19 assign a unique meter impression number to each cigarette distributor and
20 ensure that the impression is legible at the point of sale. The department
21 shall keep records that indicate the assigned meter impression number for
22 each cigarette distributor.

23 D. ONLY REGISTERED INDIVIDUALS DESCRIBED IN SECTION 42-3201,
24 SUBSECTION C MAY PURCHASE, OBTAIN OR AFFIX THE CIGARETTE STAMPS THAT ARE
25 DESCRIBED IN SECTION 42-3006, SUBSECTION D. REGISTERED INDIVIDUALS SHALL NOT
26 SELL OR PROVIDE STAMPS TO ANY OTHER PERSON.

27 Sec. 18. Section 42-3203, Arizona Revised Statutes, is amended to
28 read:

29 42-3203. Stamped packages required for cigarettes; exception

30 A. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, all cigarettes on
31 which a tax is imposed by this chapter shall be placed in packages or
32 containers and on each package or container shall be affixed an official
33 stamp described in section 42-3006, ~~pursuant to~~ OR 42-3202.03. AN AFFIXED
34 STAMP SHALL BE EVIDENCE THAT THE TAXES LEVIED BY sections 42-3052, and
35 42-3251 AND 42-3251.01 ARE PAID.

36 ~~B. All cigarettes on which a tax is imposed by this chapter and which~~
37 ~~are sold or delivered by any distributor shall have affixed the luxury stamps~~
38 ~~described in section 42-3006.~~

39 B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, CIGARETTE
40 DISTRIBUTORS ARE LIABLE FOR AFFIXING OFFICIAL STAMPS OR OTHERWISE APPLYING
41 TAX INDICIA TO CIGARETTES THAT ARE SUBJECT TO A TAX IMPOSED BY THIS CHAPTER.
42 A LICENSED CIGARETTE DISTRIBUTOR SHALL APPLY A STAMP TO EACH PACKAGE OF
43 CIGARETTES THAT IS SOLD OR DISTRIBUTED IN THIS STATE AND THAT IS SUBJECT TO
44 TAX UNDER THIS CHAPTER, INCLUDING CIGARETTES THAT ARE SUBJECT TO TAX UNDER
45 SECTION 42-3302. A LICENSED CIGARETTE DISTRIBUTOR SHALL APPLY A TAX EXEMPT

1 STAMP TO CIGARETTE PACKAGES THAT ARE NOT SUBJECT TO TAX UNDER SECTION
2 42-3304, SUBSECTION A, PARAGRAPH 2.

3 C. CIGARETTES THAT ARE SOLD, DISTRIBUTED OR TRANSFERRED BY A
4 DISTRIBUTOR LICENSED PURSUANT TO SECTION 42-3201 TO SELL CIGARETTES ARE NOT
5 REQUIRED TO HAVE AFFIXED THE LUXURY STAMPS DESCRIBED IN SECTION 42-3006 AT
6 THE TIME THE CIGARETTES ARE SOLD, DISTRIBUTED OR TRANSFERRED TO ANOTHER
7 LICENSED DISTRIBUTOR.

8 D. CIGARETTES THAT ARE EXEMPT FROM TAX UNDER 26 UNITED STATES CODE
9 SECTION 5701 AND THAT ARE DISTRIBUTED ACCORDING TO FEDERAL REGULATIONS ARE
10 NOT SUBJECT TO TAX AND DO NOT REQUIRE A STAMP UNDER THIS CHAPTER.

11 E. A RETAILER SHALL NOT OFFER FOR SALE CIGARETTES IN QUANTITIES THAT
12 ARE NOT PACKAGED AS SUCH FOR SALE BY THE CIGARETTE MANUFACTURER.

13 F. CIGARETTE DISTRIBUTORS MAY APPLY STAMPS ONLY TO CIGARETTE PACKAGES
14 THAT THE CIGARETTE DISTRIBUTORS HAVE DIRECTLY RECEIVED FROM A LICENSED
15 CIGARETTE DISTRIBUTOR, LICENSED CIGARETTE MANUFACTURER OR LICENSED CIGARETTE
16 IMPORTER.

17 Sec. 19. Section 42-3203, Arizona Revised Statutes, as amended by
18 section 18 of this act, is amended to read:

19 42-3203. Stamped packages required for cigarettes; exception

20 A. Except as otherwise provided in this chapter, all cigarettes on
21 which a tax is imposed by this chapter shall be placed in packages or
22 containers and on each package or container shall be affixed an official
23 stamp described in section 42-3006 or 42-3202.03. An affixed stamp shall be
24 evidence that the taxes levied by sections 42-3052, 42-3251 and 42-3251.01
25 are paid.

26 B. Except as provided in subsection C of this section, cigarette
27 distributors are liable for affixing official stamps or otherwise applying
28 tax indicia to cigarettes that are subject to a tax imposed by this chapter.
29 A licensed cigarette distributor shall apply a stamp to each package of
30 cigarettes that is sold or distributed in this state and that is subject to
31 tax under this chapter, including cigarettes that are subject to tax under
32 section 42-3302. A licensed cigarette distributor shall apply a tax exempt
33 stamp to cigarette packages that are not subject to tax under section
34 42-3304, subsection A, paragraph 2. A REGISTERED INDIVIDUAL DESCRIBED IN
35 SECTION 42-3201, SUBSECTION C SHALL AFFIX THE STAMPS DESCRIBED IN SECTION
36 42-3006, SUBSECTION D TO ALL CIGARETTES THAT ARE SOLD, DISTRIBUTED OR
37 TRANSFERRED TO THE REGISTERED INDIVIDUAL TO INDICATE THAT THE REGISTERED
38 INDIVIDUAL HAS PAID ALL APPLICABLE TAXES ON THE CIGARETTES AND THAT THE
39 CIGARETTES CANNOT BE SOLD, BARTERED, EXCHANGED OR OTHERWISE TRANSFERRED FROM
40 THE REGISTERED INDIVIDUAL'S POSSESSION.

41 C. Cigarettes that are sold, distributed or transferred by a
42 distributor licensed pursuant to section 42-3201 to sell cigarettes are not
43 required to have affixed the luxury stamps described in section 42-3006 at
44 the time the cigarettes are sold, distributed or transferred to another
45 licensed distributor.

1 D. Cigarettes that are exempt from tax under 26 United States Code
2 section 5701 and that are distributed according to federal regulations are
3 not subject to tax and do not require a stamp under this chapter.

4 E. A retailer shall not offer for sale cigarettes in quantities that
5 are not packaged as such for sale by the cigarette manufacturer.

6 F. Cigarette distributors may apply stamps only to cigarette packages
7 that the cigarette distributors have directly received from a licensed
8 cigarette distributor, licensed cigarette manufacturer or licensed cigarette
9 importer.

10 Sec. 20. Repeal

11 Section 42-3204, Arizona Revised Statutes, is repealed.

12 Sec. 21. Title 42, chapter 3, article 5, Arizona Revised Statutes, is
13 amended by adding section 42-3205, to read:

14 42-3205. Unstamped cigarettes

15 A. A PERSON SHALL NOT POSSESS AN UNSTAMPED CIGARETTE PACKAGE UNLESS
16 THE PERSON IS SHIPPING OR TRANSPORTING UNSTAMPED CIGARETTES PURSUANT TO
17 SUBSECTION B OF THIS SECTION, IS A LICENSED CIGARETTE MANUFACTURER OR
18 LICENSED CIGARETTE IMPORTER, IS A REGISTERED INDIVIDUAL POSSESSING THE
19 CIGARETTES SOLELY FOR THE INDIVIDUAL'S OWN USE AND CONSUMPTION IN THIS STATE
20 PURSUANT TO SECTION 42-3201, SUBSECTION C OR IS A LICENSED CIGARETTE
21 DISTRIBUTOR WHO RECEIVES UNSTAMPED CIGARETTE PACKAGES DIRECTLY FROM A
22 LICENSED CIGARETTE MANUFACTURER OR CIGARETTE IMPORTER.

23 B. EXCEPT FOR A LICENSED CIGARETTE MANUFACTURER, CIGARETTE IMPORTER OR
24 CIGARETTE DISTRIBUTOR, A PERSON WHO SHIPS UNSTAMPED CIGARETTE PACKAGES IN OR
25 INTO THIS STATE SHALL FIRST FILE WITH THE DEPARTMENT A NOTICE OF SHIPMENT.
26 THIS SUBSECTION DOES NOT APPLY TO ANY COMMON OR CONTRACT CARRIER THAT IS
27 TRANSPORTING CIGARETTES THROUGH THIS STATE TO ANOTHER LOCATION UNDER A PROPER
28 BILL OF LADING OR FREIGHT BILL THAT STATES THE QUANTITY, SOURCE AND
29 DESTINATION OF THE CIGARETTES.

30 C. A PERSON WHO TRANSPORTS UNSTAMPED CIGARETTE PACKAGES IN OR INTO
31 THIS STATE SHALL CARRY IN THE VEHICLE USED TO CONVEY THE SHIPMENT INVOICES OR
32 EQUIVALENT DOCUMENTATION OF THE SHIPMENT FOR ALL CIGARETTES IN THE SHIPMENT.
33 THE INVOICES OR DOCUMENTATION SHALL INDICATE THE NAME AND ADDRESS OF THE
34 CONSIGNOR OR SELLER, THE NAME AND ADDRESS OF THE CONSIGNEE OR PURCHASER AND
35 THE QUANTITY OF EACH BRAND OF CIGARETTES THAT IS TRANSPORTED.

36 Sec. 22. Section 42-3206, Arizona Revised Statutes, is amended to
37 read:

38 42-3206. Cigarette stamp discount purchases

39 The official stamps to be affixed to packages of cigarettes shall be
40 obtainable from the department by each licensed CIGARETTE distributor by
41 purchase at the following discount rates:

- 42 1. Ninety-six per cent of the face value for the first thirty-six
43 thousand dollars worth of stamps purchased by the distributor in any month.
44 2. Ninety-seven per cent of the face value for the second thirty-six
45 thousand dollars worth of stamps purchased by the distributor in any month.

1 3. Ninety-eight per cent of the face value on all stamps in excess of
2 seventy-two thousand dollars purchased by the distributor in any month,
3 except that if a distributor purchases more than one hundred sixty-five
4 thousand dollars worth of stamps in one month, the department shall offset
5 against the discount under this paragraph, or the distributor shall refund to
6 the department, the difference between the face value and the discounted
7 value of the first seventy-two thousand dollars worth of stamps under
8 paragraphs 1 and 2.

9 Sec. 23. Section 42-3207, Arizona Revised Statutes, is amended to
10 read:

11 42-3207. Secured cigarette stamp purchases on credit;
12 cancellation of credit privileges; collection action

13 A. Subject to subsections B and C, a licensed CIGARETTE distributor
14 who furnishes a bond of a surety company qualified to do business in this
15 state, in an amount equal to two times the amount of the distributor's
16 current monthly stamp purchases and conditioned upon the payment within the
17 time prescribed, may make payment for the official stamp on or before the
18 twentieth day of the month next following the purchase of an official stamp.
19 All other CIGARETTE distributors shall pay for each stamp at the time of
20 purchase.

21 B. Upon a finding that the amount of stamp purchases, or meter machine
22 usage, exceeds seventy-five per cent of the amount of the bond the department
23 may cancel the credit privileges provided to qualified CIGARETTE distributors
24 pursuant to subsection A.

25 C. If the indebtedness of a CIGARETTE distributor whose credit
26 privileges have been canceled pursuant to this section remains unpaid for
27 thirty days after cancellation the director shall request the attorney
28 general to take suitable action on behalf of the department to collect either
29 on the indebtedness or the surety bond.

30 Sec. 24. Section 42-3209, Arizona Revised Statutes, is amended to
31 read:

32 42-3209. Redemption of unused tobacco product stamps and meter
33 registration

34 A. The department shall redeem unused OR SPOILED stamps that a
35 CIGARETTE distributor presents for redemption and shall pay for them from
36 monies collected under this chapter.

37 B. Under rules adopted by the department, the department shall redeem
38 the unused amount of tax for which any meter is registered and shall pay for
39 it from monies collected under this chapter.

40 Sec. 25. Section 42-3210, Arizona Revised Statutes, is amended to
41 read:

42 42-3210. Unlawful use of stamps; classification; definition

43 A. A person may not affix a tax stamp to a package of cigarettes if
44 the package:

1 1. Differs from the requirements of the federal cigarette labeling and
2 advertising act (P.L. 89-92; 79 Stat. 282; 15 United States Code section
3 1331) relating to label warnings or other information on packages of
4 cigarettes for sale in the United States.
5 2. Is labeled "for export only", "U.S. tax exempt", "for use outside
6 U.S." or with similar words that indicate the manufacturer did not intend for
7 the product to be sold in the United States.
8 3. Has been altered by adding or deleting the wording, labels or
9 warnings described in paragraph 1 or 2 OF THIS SUBSECTION.
10 4. Is placed in a carton, or any other package containing several
11 individually stamped packages, that has been altered by adding or deleting
12 the wording, labels or warnings described in paragraph 1 or 2 OF THIS
13 SUBSECTION.
14 5. Has been imported into the United States on or after January 1,
15 2000 in violation of 26 United States Code section 5754 or is the subject of
16 a violation of 19 United States Code sections 1681 through 1681b, inclusive,
17 or 15 United States Code section 1335a.
18 6. Violates federal trademark or copyright laws.
19 B. The director may:
20 1. MAY revoke any license issued to a CIGARETTE distributor who sells
21 or offers for sale cigarette packages that are stamped in violation of
22 subsection A ~~of this section~~.
23 2. ~~SHALL seize and destroy, or sell to the manufacturer,~~ packages of
24 cigarettes that are stamped in violation of subsection A.
25 C. A person who sells or offers for sale cigarette packages that are
26 stamped in violation of subsection A is guilty of a class 2 misdemeanor.
27 D. Any person who sells, distributes, ~~or manufactures~~ cigarettes and
28 sustains direct economic or commercial injury as a result of a violation of
29 this section may bring an action in good faith for appropriate injunctive
30 relief.
31 E. This section does not apply to cigarettes allowed to be imported or
32 brought into the United States for personal use, or to cigarettes sold or
33 intended to be sold as duty free merchandise by a duty free sales enterprise
34 pursuant to 19 United States Code section 1555(b). This subsection does not
35 apply to cigarettes that are brought back into the customs territory for
36 resale within the customs territory.
37 F. A violation of this section is also a violation of title 44,
38 chapter 10, article 7.
39 G. For THE purposes of this section, "package" means any kind of pack,
40 carton or container in which cigarettes are sold, offered for sale or
41 otherwise distributed or intended for distribution to consumers.

1 Sec. 26. Section 42-3211, Arizona Revised Statutes, is amended to
2 read:

3 42-3211. Cigarette distributors; filing requirements

4 A. On or before the twentieth day of each month, each cigarette
5 distributor shall file a return in a form prescribed by the department FOR
6 EACH PLACE OF BUSINESS. ~~for all cigarettes that are imported into the United~~
7 ~~States during the preceding month on which the distributor affixed the luxury~~
8 ~~stamp pursuant to section 42-3203.~~ The return shall contain ALL OF THE
9 FOLLOWING:

10 ~~1. A schedule that lists each brand and brand style of cigarettes.~~
11 ~~2. The quantity of each brand style of cigarettes.~~
12 ~~3. Each cigarette supplier.~~
13 ~~4. Each person, if any, to whom the cigarettes have been conveyed for~~
14 ~~resale.~~

15 1. THE QUANTITIES OF EACH BRAND OF CIGARETTES IN POSSESSION AT THE
16 BEGINNING AND END OF THE REPORTING PERIOD.

17 2. THE QUANTITIES OF EACH BRAND OF CIGARETTES RECEIVED DURING THE
18 REPORTING PERIOD AND THE NAME AND ADDRESS OF EACH PERSON FROM WHOM EACH
19 PRODUCT WAS RECEIVED.

20 3. THE QUANTITIES OF EACH BRAND OF CIGARETTES DISTRIBUTED OR SHIPPED
21 INTO THIS STATE OR BETWEEN LOCATIONS IN THIS STATE DURING THE REPORTING
22 PERIOD, EXCEPT FOR SALES DIRECTLY TO CONSUMERS, AND THE NAME AND ADDRESS OF
23 EACH PERSON TO WHOM EACH PRODUCT WAS DISTRIBUTED OR SHIPPED.

24 4. THE QUANTITIES OF EACH BRAND OF CIGARETTES DISTRIBUTED OR SHIPPED
25 TO ANY DESTINATION WHEREVER LOCATED, INCLUDING THE QUANTITIES REPORTED UNDER
26 PARAGRAPH 3 OF THIS SUBSECTION DURING THE REPORTING PERIOD, EXCEPT FOR SALES
27 DIRECTLY TO CONSUMERS, AND THE NAME AND ADDRESS OF EACH PERSON TO WHOM EACH
28 PRODUCT WAS DISTRIBUTED OR SHIPPED.

29 5. THE QUANTITIES OF EACH BRAND OF CIGARETTES SOLD TO CONSUMERS THAT
30 ARE ITEMIZED TO SHOW SALES TO CONSUMERS IN THIS STATE AND SALE TO CONSUMERS
31 OUTSIDE OF THIS STATE.

32 ~~5.~~ 6. Copies of the customs certificates with respect to such
33 cigarettes required to be submitted by 19 United States Code section
34 1681a(c).

35 B. CIGARETTE MANUFACTURERS AND CIGARETTE IMPORTERS WHO SHIP CIGARETTES
36 INTO OR IN THIS STATE SHALL FILE A MONTHLY REPORT WITH THE DEPARTMENT. THE
37 REPORT SHALL CONTAIN THE INFORMATION REGARDING CIGARETTES DESCRIBED UNDER
38 SUBSECTION A, PARAGRAPH 3.

39 C. CIGARETTE DISTRIBUTOR REPORTS THAT ARE SUBMITTED UNDER SUBSECTION A
40 SHALL BE ITEMIZED TO DISCLOSE THE QUANTITY OF REPORTED CIGARETTES BEARING TAX
41 STAMPS OF THIS STATE, TAX EXEMPT STAMPS OF THIS STATE, STAMPS OF ANOTHER
42 STATE AND UNSTAMPED CIGARETTES. THE DISTRIBUTOR REPORTS SHALL ALSO INCLUDE,
43 IF APPLICABLE, THE FOLLOWING:

44 1. THE QUANTITY OF ARIZONA TAX AND TAX EXEMPT STAMPS THAT WERE NOT
45 AFFIXED TO CIGARETTES.

1 2. THE QUANTITY OF ARIZONA TAX AND TAX EXEMPT STAMPS THAT THE
2 DISTRIBUTOR POSSESSED AT THE BEGINNING AND END OF THE REPORTING PERIOD.

3 3. THE QUANTITY OF EACH TYPE OF ARIZONA STAMP RECEIVED DURING THE
4 REPORTING PERIOD.

5 4. THE QUANTITY OF EACH TYPE OF ARIZONA STAMP APPLIED DURING THE
6 REPORTING PERIOD.

7 D. THE DEPARTMENT MAY ADOPT RULES REQUIRING ADDITIONAL INFORMATION IN
8 THE MONTHLY REPORTS AS NECESSARY FOR THE PURPOSES OF ENFORCING THIS ARTICLE.

9 Sec. 27. Title 42, chapter 3, article 5, Arizona Revised Statutes, is
10 amended by adding section 42-3212, to read:

11 42-3212. Records

12 A. EXCEPT FOR RETAIL TRANSACTIONS WITH CONSUMERS, EACH CIGARETTE
13 MANUFACTURER, CIGARETTE IMPORTER AND CIGARETTE DISTRIBUTOR SHALL MAINTAIN
14 COPIES OF INVOICES OR EQUIVALENT DOCUMENTATION FOR EACH FACILITY AND FOR EACH
15 TRANSACTION THAT INVOLVES THE SALE, PURCHASE, TRANSFER, CONSIGNMENT OR
16 RECEIPT OF CIGARETTES WITHIN THIS STATE. THE INVOICES OR DOCUMENTATION SHALL
17 INDICATE THE NAME AND ADDRESS OF THE OTHER PARTY AND THE QUANTITY BY BRAND
18 STYLE OF THE CIGARETTES INVOLVED IN THE TRANSACTION.

19 B. A CIGARETTE DISTRIBUTOR SHALL ISSUE AN INVOICE OR EQUIVALENT
20 DOCUMENTATION FOR EACH TRANSACTION THAT INVOLVES THE SALE, PURCHASE OR
21 CONSIGNMENT OF CIGARETTES TO A RETAILER. THE INVOICE OR EQUIVALENT
22 DOCUMENTATION MUST INCLUDE THE LICENSE NUMBER OF THE CIGARETTE DISTRIBUTOR,
23 WHICH THE RETAILER MAY USE TO ASCERTAIN WHETHER THE LICENSE IS CURRENT AND
24 VALID.

25 C. RECORDS REQUIRED UNDER THIS SECTION SHALL BE PRESERVED ON THE
26 PREMISES DESCRIBED IN THE RELEVANT LICENSE IN A MANNER AS TO ENSURE
27 ACCESSIBILITY FOR INSPECTION AT REASONABLE HOURS BY AUTHORIZED PERSONNEL OF
28 THE DEPARTMENT. WITH THE DEPARTMENT'S PERMISSION, PERSONS WITH MULTIPLE
29 PLACES OF BUSINESS MAY RETAIN CENTRALIZED RECORDS, BUT SHALL TRANSMIT
30 DUPLICATES OF THE INVOICES OR THE EQUIVALENT DOCUMENTATION TO EACH PLACE OF
31 BUSINESS WITHIN THREE BUSINESS DAYS AFTER A REQUEST BY THE DEPARTMENT.

32 D. THE RECORDS REQUIRED BY THIS SECTION SHALL BE RETAINED FOR A PERIOD
33 OF FOUR YEARS AFTER THE DATE OF THE TRANSACTION.

34 E. ON REQUEST, THE DEPARTMENT AND THE UNITED STATES SECRETARY OF THE
35 TREASURY OR SECRETARY'S DESIGNEE SHALL HAVE ACCESS TO RECORDS REQUIRED UNDER
36 THIS SECTION AND REPORTS REQUIRED UNDER SECTION 42-3211. THE DEPARTMENT AT
37 ITS SOLE DISCRETION MAY SHARE THE RECORDS AND REPORTS REQUIRED BY THIS
38 CHAPTER WITH OTHER LAW ENFORCEMENT OFFICIALS OF FEDERAL AND STATE GOVERNMENTS
39 UNDER CONDITIONS THAT ASSUME THE CONFIDENTIALITY OF TAXPAYER INFORMATION
40 CONTAINED IN THE RECORDS AND REPORTS.

1 Sec. 28. Section 42-3221, Arizona Revised Statutes, is amended to
2 read:

3 42-3221. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Adult" means an individual who is at least the legal minimum
6 purchase age.

7 2. "Consumer" ~~means a person who is not a licensed distributor~~
8 ~~pursuant to section 42-3201 selling or offering tobacco products for sale or~~
9 ~~a retailer of tobacco products who is not a licensed distributor pursuant to~~

10 ~~section 42-3201.~~ HAS THE SAME MEANING PRESCRIBED IN SECTION 42-3001.
11 Consumer does not include a- AN INDIAN tribe, an enterprise owned by a tribe,
12 a tribal member or an entity owned by a tribal member that purchases tobacco
13 products in connection with a delivery sale for resale on the tribe's or
14 tribal member's reservation to the ultimate user of the tobacco products.

15 3. "Delivery sale" means any sale of tobacco products to a consumer in
16 this state in which either:

17 (a) The consumer submits the order for the sale by means of telephonic
18 or other voice transmission, mail, a delivery service or the internet or
19 other on-line service.

20 (b) The tobacco products are delivered by use of mail or a delivery
21 service.

22 4. "Delivery service" means any person that is engaged in the
23 commercial delivery of letters, packages or other containers.

24 5. "Legal minimum purchase age" means the minimum age at which an
25 individual may legally purchase tobacco products in this state.

26 6. "Mail" or "mailing" means the shipment of tobacco products through
27 the United States postal service.

28 7. "Retailer" means any person who is not a licensed distributor that
29 comes into possession of tobacco products subject to tax under this chapter
30 for the purposes of selling the tobacco products to consumers.

31 8. "Shipping container" means a container in which tobacco products
32 are shipped in connection with a delivery sale.

33 9. "Shipping document" means a bill of lading, airbill, United States
34 postal service form or any other document used to evidence the undertaking by
35 a delivery service to deliver letters, packages or other containers.

36 10. "Tobacco products" means all luxuries included in section 42-3052,
37 paragraph 5, all luxuries included in section 42-3052, paragraph 6 and all
38 luxuries included in section 42-3052, paragraph 7. Tobacco products does not
39 include pipe tobacco or cigars.

40 Sec. 29. Section 42-3222, Arizona Revised Statutes, is amended to
41 read:

42 42-3222. Delivery sales

43 A. A sale of tobacco products that constitutes a delivery sale
44 pursuant to section 42-3221 is a delivery sale regardless of whether the

1 person accepting the order for the delivery sale is located in or outside
2 this state.

3 B. A sale of tobacco products is not a sale to a consumer for the
4 purposes of this article if ~~the person is licensed as a distributor by the~~
5 ~~department or~~ if the sale is to a AN INDIAN tribe, an enterprise owned by a
6 tribe, a tribal member or an entity owned by a tribal member that purchases
7 the tobacco products for resale on the tribe's or tribal member's reservation
8 to the ultimate user of the tobacco products. If a person is a distributor
9 OR CIGARETTE DISTRIBUTOR, as defined in section 42-3001, the person shall
10 obtain a ~~distributor's~~ license from the department PURSUANT TO SECTION
11 42-3201 before submitting an order for a delivery sale.

12 C. A person shall not make a delivery sale of tobacco products to any
13 individual who is not an adult.

14 D. Each person accepting an order for a delivery sale shall comply
15 with each of the following:

- 16 1. The age verification requirements set forth in section 42-3223.
- 17 2. The disclosure requirements set forth in section 42-3224.
- 18 3. The shipping requirements set forth in section 42-3225.
- 19 4. The registration and reporting requirements set forth in section
20 42-3226.
- 21 5. The tax collection requirements set forth in section 42-3227.
- 22 6. The licensing and tax stamp requirements set forth in ~~title 42,~~
23 ~~chapter 3,~~ article 5 OF THIS CHAPTER that apply to sales of tobacco products
24 that occur entirely in this state.

25 7. All laws of this state generally applicable to sales of tobacco
26 products that occur entirely in this state imposing excise taxes and
27 transaction privilege taxes.

28 Sec. 30. Section 42-3303, Arizona Revised Statutes, is amended to
29 read:

30 42-3303. Tax on the consumer; precollection and remission by
31 distributor

32 A. The taxes levied pursuant to this article are conclusively presumed
33 to be direct taxes on the consumer but shall be precollected and remitted to
34 the department by the distributor for purposes of convenience and facility
35 only. The taxes that the distributor precollects and pays to the department:

- 36 1. Are considered to be an advance payment.
- 37 2. Shall be added to the price of the cigarettes, cigars, smoking
38 tobacco, plug tobacco, snuff and other forms of tobacco.
- 39 3. Shall be recovered from the consumer.

40 B. For the purpose of the precollection and remittance of the tax
41 imposed by this article, the CIGARETTE distributor shall purchase and affix
42 revenue stamps pursuant to article 5 of this chapter.

1 Sec. 31. Section 42-3304, Arizona Revised Statutes, is amended to
2 read:

3 42-3304. Exemptions

4 A. The tax levied by this article does not apply to cigarettes,
5 cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco:

6 1. For which the taxes imposed by article 6 of this chapter have been
7 paid.

8 2. That are sold by an Indian tribe, or by a federally licensed Indian
9 trader, on an Indian reservation to Indians who are enrolled members of the
10 Indian tribe for whose benefit the Indian reservation was established.

11 3. THAT ARE EXEMPT FROM TAX UNDER 26 UNITED STATES CODE SECTION 5701
12 AND THAT ARE DISTRIBUTED ACCORDING TO FEDERAL REGULATIONS.

13 B. The department shall adopt rules prescribing the procedures for
14 claiming and verifying sales that are exempt under this section.

15 Sec. 32. Section 42-3305, Arizona Revised Statutes, is amended to
16 read:

17 42-3305. Enforcement; penalty for failure to precollect and
18 remit tax; violation; classification

19 A. If the distributor fails to precollect or remit the tax imposed by
20 this article when due, the distributor is subject to a civil penalty equal to
21 the amount of taxes that should have been precollected or remitted but was
22 not.

23 B. A distributor or any person who ships, transports, sells or
24 distributes cigarettes, cigars, smoking tobacco, plug tobacco, snuff and
25 other forms of tobacco on which the tax required by this article has not been
26 paid WHEN DUE is guilty of a class 3 misdemeanor.

27 Sec. 33. Effective date

28 Sections 1 through 7, 9 through 16, 18 and 20 through 32 of this act
29 are effective and apply to taxable periods beginning from and after September
30 30, 2006.

31 Sec. 34. Delayed conditional effective date; notice

32 A. Section 42-3006, Arizona Revised Statutes, as amended by section 8
33 of this act, section 42-3202.03, Arizona Revised Statutes, as amended by
34 section 17 of this act, and section 42-3203, Arizona Revised Statutes, as
35 amended by section 19 of this act, are effective on the latter of the
36 following:

37 1. From and after June 30, 2007.

38 2. The date on which the director of the department of revenue
39 notifies the executive director of the Arizona legislative council that the
40 department has prepared and has available tax stamps to be affixed to
41 cigarettes by registered individuals as provided in this act.

42 B. The director of the department of revenue shall notify the
43 executive director of the Arizona legislative council in writing when the
44 department has prepared and has available tax stamps to be affixed to
45 cigarettes by registered individuals as provided in this act.